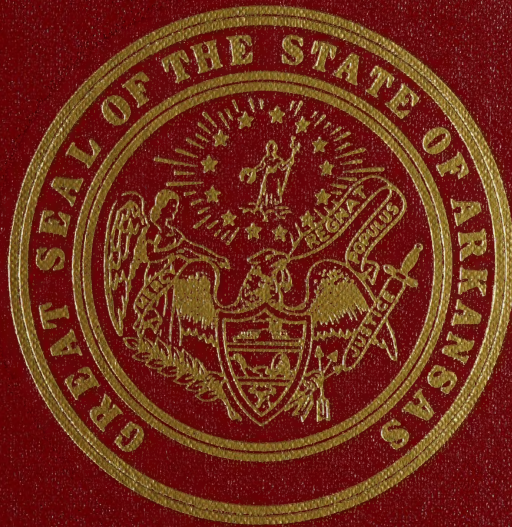


**ARKANSAS CODE
OF 1987
ANNOTATED**

OFFICIAL EDITION



VOLUME 5A • TITLE 6, CH. 20-59

ARKANSAS CODE OF 1987 ANNOTATED



VOLUME 5A 2021 Replacement TITLE 6: EDUCATION (CHAPTERS 20-59)

Prepared by the Editorial Staff of the Publisher

Under the Direction and Supervision of the
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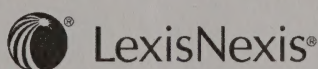
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Sources

This volume contains legislation enacted by the Arkansas General Assembly through the 2021 Regular Session and the 2021 First Extraordinary Session. Annotations are to the following sources:

- Arkansas Supreme Court and Arkansas Court of Appeals Opinions
- Federal Supplement
- Federal Reporter
- United States Supreme Court Reports
- Bankruptcy Reporter
- Arkansas Law Notes
- Arkansas Law Review
- University of Arkansas at Little Rock Law Review
- American Law Reports (ALR)

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User's Guide

Differences in language, subsection order, punctuation, and other variations in the statute text from legislative acts, supplement pamphlets, and previous versions of the bound volume, are editorial changes made at the direction of the Arkansas Code Revision Commission pursuant to the authority granted in § 1-2-303.

Many of the Arkansas Code's research aids, as well as its organization and other features, are described in the User's Guide, which appears near the beginning of the bound Volume 1A of the Code.

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RESEARCH REFERENCES

Am. Jur. 67B Am. Jur. 2d, Schools,
§ 104 et seq.

C.J.S. 78 C.J.S., Schools, § 7 et seq.
78A C.J.S., Schools, § 703 et seq.

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- 6-20-101. [Repealed.]
- 6-20-102. Guidance program — State aid.
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SECTION.

- 6-20-105. [Repealed.]
- 6-20-106. [Repealed.]
- 6-20-107. Educational cost reimbursement prohibition — Definition.

Effective Dates. Acts 1977, No. 687, § 13: July 1, 1977. Emergency clause provided: "It is hereby found and determined by the Seventy-First General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1,

1977 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1977 could work irreparable harm upon the proper administration and providing of essential govern-

mental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1977.”

Acts 1993, No. 540, § 9: Mar. 16, 1993. Emergency clause provided: “It is hereby found and determined by the Seventh-Ninth General Assembly that the effective operation of Arkansas public schools is dependent upon the immediate receipt of funds, and this Act will alleviate problems attendant to the delay in the receipt of funds. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1999, No. 1549, § 33: July 1, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that not to do so would create confusion in the state’s public school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999.”

Acts 2001, No. 1220, § 20: July 1, 2001. Emergency clause provided: “It is found and determined by the General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that to not do so would create confusion in the state’s public school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001.”

Acts 2005, No. 1763, § 2: Apr. 7, 2005. Emergency clause provided: “It is found

and determined by the General Assembly of the State of Arkansas that certain out-of-state parties are seeking to make legal claims for educational resources otherwise to be provided to Arkansas public schools; that these legal claims may jeopardize or negatively impact the adequacy of public education funding and resources; and that immediate passage of this act is necessary to ensure the appropriate management of educational services and related costs associated with juveniles placed in a residential or inpatient facility for any care or treatment, including psychiatric treatment. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-20-101. [Repealed.]

Publisher’s Notes. This section, concerning State Board of Education bonds used as security for deposit of funds, was

repealed by Acts 1999, No. 1549, § 1. The section was derived from Acts 1939, No. 15, § 1; A.S.A. 1947, § 80-936.

6-20-102. Guidance program — State aid.

(a) A school district may initiate a minimum of a one-half ($\frac{1}{2}$) time guidance program and receive a pro rata share of the regular state aid for a counselor who has completed six (6) semester hours in guidance and counseling.

(b) Aid for additional years will be continued provided that the counselor makes six (6) semester hours' progress each year until twenty-one (21) semester hours in guidance and counseling are acquired.

History. Acts 1977, No. 687, § 7; A.S.A. 1947, § 80-467.

6-20-103. Electronic warrants transfer system.

(a)(1) The Chief Fiscal Officer of the State, the Treasurer of State, and the Auditor of State shall establish an electronic warrants transfer system to distribute certain funds directly to an account in a financial institution, as designated by the public school district's treasurer.

(2) The determination of the categories of funds to be distributed shall be made by the Commissioner of Elementary and Secondary Education.

(3)(A) The public school district shall accept distributions by the electronic warrants transfer system.

(B)(i) A public school district with a district treasurer may choose to have funds first distributed to the county treasurer or directly to the school district treasurer.

(ii) If a school district with a district treasurer chooses direct distribution of funds to the school district treasurer, the State of Arkansas shall forward all state and federal funds for the school district to the district treasurer, whether they are in the form of state warrants or electronic warrants transfers.

(iii) If a school district uses the county treasurer as its treasurer, the State of Arkansas shall forward all state and federal funds for the district to the county treasurer, whether they are in the form of state warrants or electronic warrants transfers.

(b) The Chief Fiscal Officer of the State, the Treasurer of State, and the Auditor of State, by joint rules, shall establish the standards and procedures for administering the system, to include the requirement that the electronic warrants transfer shall be in such form that a single instrument shall serve as the electronic warrants transfer.

(c) A single electronic warrants transfer may contain payments to multiple public school districts, appropriations, characters, and funds.

History. Acts 1993, No. 540, §§ 1-5; 1995, No. 233, § 10; 1995, No. 1296, § 25; 2021, No. 544, § 33.

Publisher's Notes. Acts 1993, No. 540, is also codified as § 19-4-408.

Amendments. The 2021 amendment substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (a)(2).

6-20-104. Reimbursement for educational services provided in juvenile detention facilities — Definition.

(a)(1) As used in this section, “juvenile detention facility” means any facility operated by a political subdivision of the state for the temporary care of juveniles alleged to be delinquent, or adjudicated delinquent, who require secure custody in a physically restricting facility.

(2) Under § 9-27-330(a)(11), such juvenile detention facility must provide educational and other rehabilitative services to adjudicated delinquents who may be ordered by the court to remain in the juvenile detention facility for an indeterminate period not to exceed ninety (90) days.

(b)(1) Upon disposition by the juvenile court that an adjudicated juvenile shall stay in a juvenile detention facility for any period of time, the facility shall notify the juvenile’s resident school district of his or her whereabouts and within five (5) days after the juvenile is released shall certify the detention dates to the district.

(2) The school district where the facility is located and the juvenile detention facility shall jointly complete an application for funding to be based on the approved student capacity of the facility and shall submit the application to the Division of Elementary and Secondary Education.

(3) If the amount of state funds due cannot be agreed upon by the juvenile detention facility and the school district where the facility is located, an appeal shall be made to the division. All decisions rendered shall be final.

(c) The division shall issue rules for the effective implementation of this section, including:

(1) The classification of juvenile detention centers as approved residential treatment facilities;

(2) The designation of the juvenile detention facility and the district where the juvenile detention facility is located as responsible for educating the student consistent with federal and state laws for any period of time the student is being held in the facility; and

(3) The designation of the resident district of a student who is being held in a juvenile detention facility as responsible for the timely transfer of a student’s educational records to the district where the juvenile detention facility is located upon notification by the court of the student’s placement in a juvenile detention facility.

History. Acts 1995, No. 667, §§ 1-4; 1999, No. 1318, § 2; 2019, No. 315, § 271.

Amendments. The 2019 amendment substituted “rules” for “regulations” in the introductory language of (c).

Cross References. Alternative dispositions for delinquent juveniles, § 9-27-330.

6-20-105. [Repealed.]

Publisher’s Notes. This section, concerning millage rates, was repealed by

Acts 2001, No. 1220, § 5. The section was derived from Acts 1995, No. 1328, § 1.

6-20-106. [Repealed.]

A.C.R.C. Notes. The repeal of this section by Acts 2019, No. 757, § 42, superseded the amendment of this section by Acts 2019, No. 315, § 272, and Acts 2019, No. 910, § 1584. The amendment by Acts 2019, No. 315 deleted “and regulations” following “rules” throughout the section, and the amendment by Acts 2019, No. 910 substituted “Division of Elementary and

Secondary Education” for “Department of Education.”

Publisher’s Notes. This section, concerning Amendment 74 rules and regulations, was repealed by Acts 2019, No. 757, § 42, effective July 24, 2019. The section was derived from Acts 1999, No. 1429, § 28; 2019, No. 315, § 272; 2019, No. 910, § 1584.

6-20-107. Educational cost reimbursement prohibition — Definition.

(a) As used in this section, “juvenile” means a person who is eighteen (18) years of age or younger.

(b)(1) The Division of Elementary and Secondary Education, a public school district, or an open-enrollment public charter school shall not be liable for any educational costs or other related costs associated with the placement of a juvenile in an out-of-state residential or inpatient facility for any care and treatment, including psychiatric treatment, unless:

(A) At the time of placement, the juvenile’s physician determines that the out-of-state placement is medically necessary and is the most appropriate placement available;

(B) The division authorizes public payment for educational costs based on a determination that the educational program and facilities are appropriate for the juvenile and the division has approved the facility’s educational program;

(C)(i) Each educational program authorization precedes the placement.

(ii) If the educational program is not authorized before placement, the division, public school districts, or open-enrollment public charter schools shall not be responsible for educational or other related costs, nor shall they be subject to any order to pay for educational or other related costs; and

(D) The out-of-state residential or inpatient facility is located within a state that borders Arkansas.

(2) Payment under this subsection shall be:

(A) Limited to twenty (20) students at any one (1) time during a calendar year unless:

(i) The juvenile under subdivision (b)(1) of this section qualifies as disabled under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; and

(ii) Payment is required under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; and

(B) Subject to the availability of division funding.

(c) The division, a public school district, or an open-enrollment public charter school shall not be liable for any educational costs or other

related costs associated with the placement of a juvenile in an in-state residential or inpatient facility for any care and treatment, including psychiatric treatment, unless:

(1) The division authorizes public payment for educational costs based on a determination that the educational program and facilities are appropriate for the juvenile and the division has approved the facility's educational program; and

(2)(A) Each educational program authorization precedes the placement.

(B) If the educational program is not authorized before the placement, the division, public school districts, or open-enrollment public charter schools shall not be responsible for education or other related costs, nor shall they be subject to any order to pay for educational or other related costs.

(d) The liability of the division, a public school district, or an open-enrollment public charter school for the educational costs or other related costs described in subsections (b) and (c) of this section shall be limited to the lesser of:

(1) The reimbursement rate established by the division for a juvenile placed in a residential or inpatient facility; or

(2) The normal and customary educational cost reimbursement rate of the state in which a juvenile is placed in an out-of-state residential or inpatient facility as determined by the division.

(e) This section shall not apply to a juvenile placed in an Arkansas juvenile detention facility as defined in § 6-20-104.

(f) Nothing in this section shall be construed to require payment by the division, a public school district, or an open-enrollment public charter school for educational costs and other related costs associated with the placement of a juvenile in an out-of-state residential or inpatient facility for any care or treatment, including psychiatric treatment, before April 7, 2005.

History. Acts 2005, No. 1763, § 1; 2019, No. 523, § 2; 2019, No. 910, §§ 1585-1588.

A.C.R.C. Notes. Acts 2019, No. 523, § 1, provided: "Legislative Findings. The General Assembly finds that:

"(1) Under Arkansas Code § 6-20-107, students who live and attend school in Arkansas are entitled to an education during a stay for care and treatment in a residential or inpatient facility;

"(2) For many students and their families, placement in an out-of-state residential or inpatient facility is appropriate and promotes family participation in the student's care and treatment because the out-of-state facility is closer to the student's home than the nearest in-state facility;

"(3) The General Assembly has histori-

cally recognized that many individuals and institutions in Arkansas routinely do business with individuals and institutions in bordering states and has enacted laws that ensure consistency of interaction with in-state and out-of-state individuals, institutions, and services such as airport services, the controlling of illegal drug trafficking, the depositing of Arkansas local school district funds, intergovernmental cooperation agreements, Medicaid reimbursement, municipal water and sewer operations, taxation, and the venue for adoption proceedings;

"(4) Arkansas students and their families should have the ability to seek care and treatment at the closest and most appropriate residential or inpatient facility; and

"(5) Arkansas should cover the educa-

tional costs of a student in an out-of-state residential or inpatient facility, subject to physician certification that the placement is medically necessary and the most appropriate placement available, in the same manner that the state covers the educational costs of a student in an in-state residential or inpatient facility."

SUBCHAPTER 2 — MANAGEMENT AND APPORTIONMENT OF FUNDS GENERALLY

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- 6-20-201. [Repealed.]
- 6-20-202. Land Sales Fund.
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- 6-20-207 — 6-20-209. [Repealed.]
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- 6-20-218. Federal funds and National Forest Reserve Fund — Apportionment to counties in national forests.
- 6-20-219. [Repealed.]
- 6-20-220. [Repealed.]
- 6-20-221. County treasurer's commission on school funds — Exceptions.
- 6-20-222. Deposit of school funds — Security.
- 6-20-223. Noncredit remedial courses.
- 6-20-224. Federal turnback funds.
- 6-20-225. Loan or transfer repayment.

Preambles. Acts 1933, No. 104 contained a preamble which read: "Whereas, moneys now received through the Federal Government from the National Forest Reserve Fund are distributed in section 133 of Act No. 169 of 1931 to the various school districts of the counties, and,

"Whereas, the local school tax of school districts situated in National Forest Reserves cannot be levied against the land consisting of the National Forest Reserve which results in a great reduction in the school revenues of such districts situated in National Forest Reserves,

"Now, therefore ..."

Acts 1967, No. 229 contained a preamble which read: "Whereas, the Arkansas History Textbook provided for in Act 229 of 1963 will be published prior to the end of the current fiscal year, and

"Whereas, the proceeds of the sale of the Arkansas History Textbook will accrue to the Public School Fund, and

"Whereas, it is anticipated that addi-

tional copies will be printed and sold in the 1967-69 biennium, and

"Whereas, the State Board of Education and the Arkansas History Commission will procure a copyright for said Arkansas History Textbook ..."

Effective Dates. Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate

effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1933, No. 55, § 2: approved Feb. 25, 1933. Emergency clause provided: "This Act being for the relief of financially distressed school districts of the State, an emergency is declared to exist, and this act shall take effect and be in force from and after its passage."

Acts 1933, No. 104, § 3: approved Mar. 16, 1933. Effective date clause provided: "Section 133 of Act 169 of the General Assembly of 1931 and all other laws and parts of laws in conflict with this Act are hereby repealed and this Act shall take effect and be in full force from and after its passage."

Acts 1967, No. 229, § 5: Mar. 6, 1967. Emergency clause provided: "It is hereby found and determined that the General Assembly has, by a vote of two-thirds of the members elected to both houses, voted to extend the regular session of the 66th General Assembly, as authorized in the Constitution; that under the provisions of Amendment 7 to the Constitution, enactments of the General Assembly that do not have an emergency clause do not become effective until 90 days after the date of final adjournment of the General Assembly; that the extended session of the General Assembly may not adjourn in time for this Act to take effect prior to July 1, 1967, thereby depriving the agency for which funds are appropriated herein of necessary operating funds to commence the next fiscal biennium; and, in order that the appropriation made herein may be available on July 1, 1967, the General Assembly determines that the immediate passage of this Act is necessary. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval, provided that the appropriation authorized herein shall not be available until July 1, 1967."

Acts 1977, No. 955, § 20: July 1, 1977. Emergency clause provided: "It is hereby found and determined by the Seventy-First General Assembly that the amendments to the Revenue Stabilization Law are essential to the continued operation of

State Government. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect from and after July 1, 1977."

Acts 1985, No. 558, § 4: Mar. 25, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present law is not clear with regard to the right of a county treasurer to receive a commission on public school funds handled by him for a district which is not administered in his county; that in some counties of the State both the county treasurer in which school funds are collected and the county treasurer of the county in which the district is administered are taking a full commission on such school funds; that the county treasurer of the county in which funds are collected but in which the school district is not administered actually performs very little service to the district; that to allow treasurers of two counties to take a commission on any particular public school funds places an unfair burden on such funds and on the districts for which such funds are collected; that it is the purpose and intent of this Act to clarify the law to assure that in the case of a school district located in two or more counties, only the county treasurer of the county in which the district is administered is entitled to a commission on the funds of such district and that this Act should be given effect at the earliest possible date to avoid this inequity. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 333, § 3: Mar. 19, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that under present law only the treasurer of a county in which a school district is administered is entitled to receive a commission on school funds; that there are some counties in the State in which no school district is administered and consequently the treasurers of such counties receive no commission on school funds; that the school districts in the respective counties should pay a proportional part of the salaries and expenses of the county treasurer's office in each

county and that this Act is designed to correct this situation and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 1194, § 38: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1999, No. 1078, § 92: July 1, 2000.

Acts 1999, No. 1429, § 37: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1999 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1999 could work irreparable harm upon the proper administration and provision

of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1999."

Acts 1999, No. 1549, § 33: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that not to do so would create confusion in the state's public school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 128: July 1, 2016.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-20-201. [Repealed.]

Publisher's Notes. This section, concerning the allocation of funds to districts, was repealed by Acts 1999, No. 1078, § 76

and No. 1549, § 2. The section was derived from Acts 1979, No. 598, §§ 2, 3; A.S.A. 1947, §§ 80-712, 80-713.

6-20-202. Land Sales Fund.

When the Treasurer of State receives the following proceeds from the Commissioner of State Lands, it shall be the duty of the Treasurer of State to set aside that amount to the credit of the Land Sales Fund:

(1) The proceeds from the sale of all lands that have been or hereafter may be granted by the United States to this state and not otherwise appropriated by the United States to this state, and also all moneys, stocks, bonds, lands, and other property now belonging to any fund for purposes of education;

(2) The net proceeds of all sales of lands and other property and effects that may accrue to this state by escheat, from sales of estrays, from unclaimed dividends, or from distributive shares of the estates of deceased persons;

(3) Any proceeds of the sale of public lands which may have been, or may be, paid over to the state, the United States Congress consenting;

(4) All the net proceeds of the sales of all state land, including land sold for taxes; and

(5) All grants, gifts, or devises.

History. Acts 1931, No. 169, § 127; 1933, No. 55, § 1; Pope's Dig., §§ 8635, 11569, 13859; A.S.A. 1947, § 80-701.

CASE NOTES**Nature of Fund.**

Revenues accruing under this section and all revenues standing to the credit of the Permanent School Fund (now Public School Fund) are property of the state for

public school purposes only; and the State Board of Education, in investing these funds, acts as an agent of the state. State ex rel. Holt v. State Bd. of Educ., 195 Ark. 222, 112 S.W.2d 18 (1937).

6-20-203. Public School Fund — Creation and management.

(a)(1) At the end of each fiscal year, the Treasurer of State shall transfer to the credit of the Public School Fund all unappropriated balances of the Land Sales Fund that have been or may be made to this state and that are not otherwise appropriated by the terms of the grant, gift, or devise.

(2)(A) The balances shall be securely invested and preserved as the Public School Fund of the state and shall be the common property of the state for public school purposes only.

(B) The Public School Fund shall remain inviolate and intact, and the interest thereon only shall be expended for the maintenance of the schools of the state.

(b) All moneys belonging or owing to the Public School Fund, as mentioned in subsection (a) of this section, or accruing as revenues therefrom, shall be paid directly into the State Treasury and shall not be paid out except on a warrant of the Auditor of State.

(c) Under the direction of the State Board of Education, the Auditor of State shall draw his or her warrants on the Treasurer of State for the disbursement of those funds for those purposes.

History. Acts 1931, No. 169, §§ 9, 127, A.S.A. 1947, §§ 80-701 — 80-703; Acts 128; 1933, No. 55, § 1; Pope's Dig., 1999, No. 1549, § 3.
§§ 8635, 11449, 11569, 11570, 13859;

RESEARCH REFERENCES

ALR. Procedural issues concerning public school funding cases. 115 A.L.R.5th 563.

CASE NOTES

ANALYSIS

Construction of School.
Loans.
Nature of Fund.

Construction of School.

Permanent School Fund (now Public School Fund) was not available for the construction of a school for the blind. *Walls v. State Bd. of Educ.*, 195 Ark. 955, 116 S.W.2d 354 (1938).

Loans.

The Permanent School Fund (now Public School Fund) could not properly be diminished by its use; while funds could be loaned, only accruing interest could be used, it being presumed that money would be repaid or be refunded. *Walls v. State Bd. of Educ.*, 195 Ark. 955, 116 S.W.2d 354 (1938).

While Permanent School Fund (now Public School Fund) could be loaned so that interest could accrue, it could not be borrowed upon the credit of the state, wherein the resources or revenues of the state could be pledged, directly or indirectly, for the repayment. *Walls v. State Bd. of Educ.*, 195 Ark. 955, 116 S.W.2d 354 (1938).

Nature of Fund.

Revenues accruing under § 6-20-202 and all revenues standing to the credit of the Permanent School Fund (now Public School Fund) are property of the state for public school purposes only; the State Board of Education, in investing these funds, acts as an agent of the state. *State ex rel. Holt v. State Bd. of Educ.*, 195 Ark. 222, 112 S.W.2d 18 (1937).

6-20-204. Public School Fund — Sources and purpose.

(a) The annual interest and income derived from the Public School Fund, the annual revenue of the state that is set apart by law for general purposes, and all other revenue and funds that may come into the State Treasury for such purposes shall constitute the Public School Fund of the state.

(b) Each year the Public School Fund shall be apportioned for the support of public schools as provided by law.

History. Acts 1931, No. 169, § 129; Pope's Dig., § 11571; A.S.A. 1947, § 80-704; Acts 1999, No. 1549, § 4.

6-20-205. Public School Fund — Arkansas History Textbook Revolving Fund.

(a) The State Board of Education is authorized to publish and offer for sale an Arkansas history textbook copyrighted in the name of the state board and the Arkansas State Archives.

(b) The state board shall establish a procedure for marketing the textbook and shall establish a sale price schedule.

(c) Net proceeds received from the sale of the Arkansas history textbook shall be deposited to the credit of the Public School Fund.

(d) There is established in the Public School Fund an Arkansas History Textbook Revolving Fund for the purpose of expediting the purchase and sale of an Arkansas history textbook.

History. Acts 1963, No. 229, §§ 1, 2; 1967, No. 229, §§ 1, 2; A.S.A. 1947, §§ 80-704.1, 80-704.2; Acts 2016 (3rd Ex. Sess.), No. 2, § 94; 2016 (3rd Ex. Sess.), No. 3, § 94.

A.C.R.C. Notes. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 1, provided:

“(a) The General Assembly finds:

“(1) State government provides vital functions that impact the lives of Arkansas citizens on a daily basis;

“(2) While these functions are important, it is equally important to ensure that state government operates efficiently and effectively to eliminate unnecessary spending of tax dollars and provide timely

and quality services to Arkansas citizens; and

“(3) Issues such as the administrative organization of a governmental entity, the appointment structure of a governmental entity’s governing board, and extraneous duties assigned to governmental entities hamper the operation of state government and result in unnecessary expenses and delays in the provision of state services.

“(b) It is the intent of this act to amend provisions of law applicable to certain agencies, task forces, committees, and commission to promote efficiency and effectiveness in the operations of state government as a whole.”

6-20-206. Public School Fund — Priority of funding.

In determining the allocation of available funds to the various programs in the Public School Fund, the State Board of Education shall consider those line items necessary to provide an equitable and adequate education to be of highest priority above all other programs and commitments.

History. Acts 1977, No. 955, § 19; A.S.A. 1947, § 80-704.3; Acts 1999, No. 391, § 16; 2005, No. 2121, § 11.

6-20-207 — 6-20-209. [Repealed.]

Publisher’s Notes. Former §§ 6-20-207 — 6-20-209, concerning the public school fund: aid to districts with orphanages, correction of apportionment upon change of county lines, and vouchers drawn at times provided by resolutions,

were repealed by Acts 1999, No. 1549, §§ 5-7. The sections were derived from the following sources:

6-20-207. Acts 1943, No. 53, § 1; 1965, No. 10, § 1; 1975, No. 651, § 1; 1983, No. 521, § 1; A.S.A. 1947, § 80-714.

6-20-208. Acts 1931, No. 169, § 131; Pope's Dig., § 11573; A.S.A. 1947, § 80-716.

6-20-209. Acts 1943, No. 179, § 1; A.S.A. 1947, § 80-717.

6-20-210. [Repealed.]

A.C.R.C. Notes. The repeal of this section by Acts 2019, No. 757, § 43, superseded the amendment of this section by Acts 2019, No. 910, § 1589. The amendment by Acts 2019, No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" and "division" for "department" throughout the section.

Publisher's Notes. This section, concerning Pulaski County desegregation,

was repealed by Acts 2019, No. 757, § 43, effective July 24, 2019. The section was derived from Acts 2003 (1st Ex. Sess.), No. 51, § 9; 2003 (2nd Ex. Sess.), No. 98, § 7; 2019, No. 910, § 1589.

Former § 6-20-210, concerning estimates of available moneys and lists of school closing dates, was repealed by Acts 1993, No. 294, § 13. The section was derived from Acts 1943, No. 179, § 2; A.S.A. 1947, § 80-718.

6-20-211. Public School Fund — Carryover balances.

The State Board of Education shall have the authority to budget carryover balances in the Public School Fund.

History. Acts 1995, No. 1194, § 25; 1999, No. 1549, § 8.

Publisher's Notes. Former § 6-20-211, concerning withholding excess funds,

was repealed by Acts 1993, No. 294, § 13. The section was derived from Acts 1943, No. 179, § 2; A.S.A. 1947, § 80-718.

6-20-212. [Repealed.]

A.C.R.C. Notes. The repeal of this section by Acts 2019, No. 757, § 44, superseded the amendment of this section by Acts 2019, No. 910, § 1590. The amendment by Acts 2019, No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education", substituted "division" for "department", and deleted an obsolete provision.

Publisher's Notes. This section, concerning desegregation expenses, was re-

pealed by Acts 2019, No. 757, § 44, effective July 24, 2019. The section was derived from Acts 2005, No. 2131, § 12; 2019, No. 910, § 1590.

Former § 6-20-212, concerning advance apportionments, was repealed by Acts 1993, No. 294, § 13. The section was derived from Acts 1943, No. 179, §§ 3, 4; 1953, No. 384, § 17; A.S.A. 1947, §§ 80-719, 80-720.

6-20-213, 6-20-214. [Repealed.]

Publisher's Notes. These sections, concerning suits to recover moneys owed and the Auditor of State's report, were repealed by Acts 1993, No. 294, § 13. The sections were derived from the following sources:

6-20-213. Acts 1931, No. 169, § 10; Pope's Dig., § 11450; A.S.A. 1947, § 80-705.

6-20-214. Acts 1931, No. 169, § 11; Pope's Dig., § 11451; A.S.A. 1947, § 80-706.

6-20-215. General school fund — Sources generally.

The general school fund of any county shall be composed of all money received from the Public School Fund of the state, such fines, penalties,

and other money as shall be accrued to the general school fund in accordance with the law, and any appropriation from the general revenue of the county for public school purposes.

History. Acts 1931, No. 169, § 132; 721; Acts 1993, No. 294, § 13; 1999, No. Pope's Dig., § 11574; A.S.A. 1947, § 80- 1549, § 9.

RESEARCH REFERENCES

ALR. Procedural issues concerning public school funding cases. 115 A.L.R.5th 563.

6-20-216. General school fund — Apportionment generally.

The county treasurer shall apportion the general school fund of the county based upon the average daily membership of the school districts within the county. Each school district within the county shall receive its pro rata share of the general school fund of the county.

History. Acts 1931, No. 169, § 36; A.S.A. 1947, § 80-723; Acts 1993, No. 294, § 13; 1999, No. 1078, § 77; 2005, No. 433, § 1.

Cross References. Use, purposes of school fund, Ark. Const., Art. 14, § 2.

RESEARCH REFERENCES

Ark. L. Rev. Brinkley Beecher Cook-Campbell, Comment: "Schoolhouse Block": Why the Arkansas Public School

Choice Act Should Be Improved but Not Eliminated, 67 Ark. L. Rev. 927 (2014).

6-20-217. General school fund — Funds of doubtful application.

The quorum court of any county is authorized to place all funds about which there is a doubt as to their proper application to the credit of the general school fund in the county treasury. These funds shall be apportioned by the county treasurer among the school districts of the county based upon the average daily membership of each school district.

History. Acts 1931, No. 169, § 135; 722; Acts 1999, No. 1078, § 78; 2005, No. Pope's Dig., § 11577; A.S.A. 1947, § 80- 433, § 2.

6-20-218. Federal funds and National Forest Reserve Fund — Apportionment to counties in national forests.

(a) All moneys received by the counties for the support of the public schools from the United States Government from the income from the national forests shall be paid by the county treasurer upon receipt from the Treasurer of State only to the school districts that lie in or partially in national forest boundary lines.

(b) The amount of money to be apportioned by the school authorities to the school districts, as provided in this section, shall be in proportion

to the number of acres of national forest lands lying within the boundaries of each school district.

History. Acts 1933, No. 104, § 1; Pope's Dig., § 11575; A.S.A. 1947, § 80-726.

CASE NOTES

Conflict with Federal Law.

This section could not be construed to require counties to share the federal funds, under the Payments in Lieu of

Taxes Act, with school districts. *Altus-Denning Sch. Dist. No. 31 v. Franklin County*, 568 F. Supp. 95 (W.D. Ark. 1983).

6-20-219. [Repealed.]

Publisher's Notes. This section, concerning state transportation aid funds and prohibited operation of certain school buses, was repealed by Acts 1997, No. 1133, § 2. The section was derived from Acts 1961, No. 242, §§ 1, 2; 1975, No. 648,

§ 1; 1979, No. 196, § 1; 1983, No. 597, § 1; 1983 (1st Ex. Sess.), No. 83, § 1; 1983 (1st Ex. Sess.), No. 84, § 1; A.S.A. 1947, §§ 80-735, 80-736; Acts 1991, No. 401, § 1; 1991, No. 840, § 1.

6-20-220. [Repealed.]

Publisher's Notes. This section, concerning county treasurer's report to the county board of education or board's designee, was repealed by Acts 1995, No. 233,

§ 21. The section was derived from Acts 1931, No. 169, § 136; Pope's Dig., § 11578; A.S.A. 1947, § 80-724; Acts 1993, No. 294, § 13.

6-20-221. County treasurer's commission on school funds — Exceptions.

(a) Unless otherwise provided by law, the county treasurer shall be allowed a commission of two percent (2%) on all school funds paid into his or her hands, except on borrowed money, or the proceeds of the sale of bonds and all other funds on which the law shall not allow commission. In the case of a school district that is composed of area in two (2) or more counties, only the county treasurer of the county in which the school district is administered shall be allowed a commission on the funds of the school district unless the school district has a district treasurer, in which case the county treasurer collecting the school district funds shall be allowed a commission on the funds of that school district.

(b) The county school funds shall pay such proportional part of the salaries and expenses of the county treasurer's office as the total county treasurer's commissions on school funds bear to the total county treasurer's commissions on all funds.

History. Acts 1931, No. 169, § 137; Pope's Dig., § 11579; Acts 1985, No. 558, § 1; A.S.A. 1947, § 80-725; Acts 1987, No. 333, § 1.

6-20-222. Deposit of school funds — Security.

(a) All general deposits of school funds in banks shall be secured by general obligation bonds of the United States, by bonds, notes, debentures, or other obligations issued by an agency of the United States Government, by bonds of the State of Arkansas, or by bonds of a political subdivision thereof which has never defaulted on any of its obligations, in an amount at least equal to the amount of the deposit, or by a bond executed by a surety company authorized to do business in the State of Arkansas, the surety on the bond to be approved by the Commissioner of Elementary and Secondary Education.

(b) If the bank selected by the school district board of directors as a depository of its funds shall be unable to secure the school deposit as set out in this section, it shall be authorized to accept the funds as a preferred deposit, and in the event of insolvency, the preferred deposit shall be paid in full before other bank deposits are paid.

History. Acts 1931, No. 169, § 74; Pope's Dig., § 11510; A.S.A. 1947, § 80-728; Acts 1995, No. 402, § 2; 2021, No. 544, § 34.

Amendments. The 2021 amendment

substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (a).

Cross References. Investments of public funds permitted, § 19-1-504.

CASE NOTES

ANALYSIS

Deposit.

Depositories.

Deposit.

This section must be construed together with § 23-33-303 [repealed] but no particular form of writing is required. *Wasson v. Pledger*, 192 Ark. 1006, 96 S.W.2d 8 (1936). See *Boone County Bd. of Educ. v. Taylor*, 185 Ark. 869, 50 S.W.2d 241 (1932); *Taylor v. Gregory Special Sch. Dist.*, 187 Ark. 110, 58 S.W.2d 420 (1933).

Letter of cashier of bank designated as

county depository of school funds specifically stating that deposit was accepted under the provisions of this section and would be treated as a preferred deposit was a substantial compliance with the law so that law existing at the time became a part of the contract. *Wasson v. Pledger*, 192 Ark. 1006, 96 S.W.2d 8 (1936).

Depositories.

County board of education could designate all the three banks in county as depositories for the school funds of the county. *Wasson v. Pledger*, 192 Ark. 1006, 96 S.W.2d 8 (1936).

6-20-223. Noncredit remedial courses.

(a) Noncredit remedial courses of instruction taken by a student at a state-supported institution of higher education in this state to qualify for unconditional admission to the institution or to another state-supported institution of higher education in this state may be included within the meaning of public school purposes.

(b) Nothing in this section shall be interpreted as authorizing a state-supported institution to receive direct payments from the Division of Elementary and Secondary Education or from a school district for noncredit remedial courses taken by a student.

History. Acts 1999, No. 375, § 1; 2019, No. 910, § 1591. substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b).
Amendments. The 2019 amendment

6-20-224. Federal turnback funds.

Any federal mineral leasing funds, federal forest reserve funds, federal flood control funds, or any similar turnback funds in the State Treasury for which the eligible county or school district cannot be identified may be transferred to the Division of Elementary and Secondary Education Public School Fund Account and used for any lawful school purpose.

History. Acts 1999, No. 1429, § 25; 2019, No. 910, § 1592. substituted “Division of Elementary and Secondary Education” for “Department of Education”.
Amendments. The 2019 amendment

6-20-225. Loan or transfer repayment.

Notwithstanding the provisions of § 19-5-501 et seq., or any law to the contrary, up to two million dollars (\$2,000,000) received by the Public School Fund from the Budget Stabilization Trust Fund either by loan or transfer during the 1996-1997 fiscal year, shall be repaid from time to time by transfer by the Treasurer of State from either the Public School Support Fund or the Public School Fund, or its appropriate fund account, solely from revenues generated by the income tax surcharge levied by § 6-20-312(c) [repealed] after the provisions of § 19-6-481(b) [repealed] have been achieved.

History. Acts 1999, No. 1429, § 31.

SUBCHAPTER 3 — EQUITABLE SCHOOL FINANCE SYSTEM ACT

[Repealed.]

SECTION.

6-20-301 — 6-20-311. [Repealed.]

6-20-312. [Repealed.]

6-20-313 — 6-20-318. [Repealed.]

6-20-319, 6-20-320. [Repealed.]

SECTION.

6-20-321. [Repealed.]

6-20-322. [Repealed.]

6-20-323 — 6-20-327. [Repealed.]

Publisher’s Notes. Sections 6-20-301 — 6-20-318, 6-20-320, and 6-20-321 of former subchapter 3, the School Finance Act, were repealed by Acts 1995, No. 917, § 15. The sections were derived from the following sources:

6-20-301. Acts 1983 (1st Ex. Sess.), No. 34, § 1; A.S.A. 1947, § 80-850.10.

6-20-302. Acts 1983 (1st Ex. Sess.), No. 34, § 2; 1985, No. 460, § 1; 1985, No. 789, § 1; A.S.A. 1947, § 80-850.11; Acts 1987, No. 662, § 1; 1989, No. 24, §§ 1, 4; 1989,

No. 148, §§ 1, 2; 1991, No. 401, §§ 2, 3; 1993, No. 294, § 13; 1993, No. 968, § 1; 1993, No. 1070, §§ 2, 3; 1994 (1st Ex. Sess.), No. 1, § 1.

6-20-303. Acts 1983 (1st Ex. Sess.), No. 34, § 12; A.S.A. 1947, § 80-850.21.

6-20-304. Acts 1983 (1st Ex. Sess.), No. 34, § 13; A.S.A. 1947, § 80-850.22.

6-20-305. Acts 1983 (1st Ex. Sess.), No. 34, § 3; A.S.A. 1947, § 80-850.12; Acts 1993, No. 294, § 13.

6-20-306. Acts 1983 (1st Ex. Sess.), No.

34, § 4; 1985, No. 460, § 2; A.S.A. 1947, § 80-850.13; Acts 1989, No. 24, §§ 2, 3; 1989 (3rd Ex. Sess.), No. 37, § 1; 1991, No. 401, § 4; 1993, No. 294, § 13; 1993, No. 968, § 2; 1994 (1st Ex. Sess.), No. 1, § 2.

6-20-307. Acts 1983 (1st Ex. Sess.), No. 34, § 8; A.S.A. 1947, § 80-850.17; Acts 1987, No. 819, § 1; 1989, No. 820, § 1; 1991, No. 401, § 5; 1993, No. 465, § 1; 1993, No. 1043, § 1; 1995, No. 585, §§ 1, 2; 1995, No. 1142, § 1.

6-20-308. Acts 1983 (1st Ex. Sess.), No. 34, § 10; A.S.A. 1947, § 80-850.19; Acts 1993, No. 470, § 1.

6-20-309. Acts 1983 (1st Ex. Sess.), No. 34, § 5; 1985, No. 674, § 1; A.S.A. 1947, § 80-850.14; Acts 1987 (1st Ex. Sess.), No. 3, § 1; 1989, No. 30, § 1; 1991, No. 401, § 6; 1991, No. 618, §§ 1, 2.

6-20-310. Acts 1983 (1st Ex. Sess.), No. 34, § 6; 1983 (1st Ex. Sess.), No. 107, § 1; 1985, No. 674, § 2; A.S.A. 1947, § 80-850.15; Acts 1987, No. 203, § 1; 1989, No. 480, § 1; 1993, No. 294, § 13; 1994 (1st Ex. Sess.), No. 1, § 4.

6-20-311. Acts 1983 (1st Ex. Sess.), No. 34, § 6; 1985, No. 789, § 2; A.S.A. 1947, § 80-850.15.

6-20-312. Acts 1983 (1st Ex. Sess.), No. 34, § 6; A.S.A. 1947, § 80-850.15. This section was previously repealed by Acts 1993, No. 294, § 13.

6-20-313. Acts 1983 (1st Ex. Sess.), No. 34, § 6; A.S.A. 1947, § 80-850.15; Acts 1987, No. 377, § 1; 1989, No. 24, § 5; 1993, No. 294, § 13; 1994 (1st Ex. Sess.), No. 1, § 5; 1995, No. 915, § 10.

6-20-314. Acts 1983 (1st Ex. Sess.), No. 34, § 7; A.S.A. 1947, § 80-850.16; Acts 1991, No. 401, §§ 7, 8; 1993, No. 968, § 3; 1994 (1st Ex. Sess.), No. 1, § 3.

6-20-315. Acts 1983 (1st Ex. Sess.), No. 34, § 9; A.S.A. 1947, § 80-850.18.

6-20-316. Acts 1983 (1st Ex. Sess.), No. 34, § 9; A.S.A. 1947, § 80-850.18; Acts 1991, No. 1016, § 1; 1993, No. 294, § 13.

6-20-317. Acts 1983 (1st Ex. Sess.), No. 34, § 9; A.S.A. 1947, § 80-850.18.

6-20-318. Acts 1983 (1st Ex. Sess.), No. 34, § 9; A.S.A. 1947, § 80-850.18.

6-20-320. Acts 1989, No. 24, § 6; 1989 (3rd Ex. Sess.), No. 37, § 2; 1991, No. 401, §§ 11, 12.

6-20-321. Acts 1993, No. 1186, § 1.

6-20-301 — 6-20-311. [Repealed.]

Publisher's Notes. These sections, concerning the Equitable School Finance System Act of 1995, were repealed by Acts 2003 (2nd Ex. Sess.), No. 59, § 4. The sections were derived from the following sources:

6-20-301. Acts 1995, No. 917, § 1.

6-20-302. Acts 1995, No. 917, § 2; 1997, No. 1307, § 1.

6-20-303. Acts 1995, No. 917, § 4; 1997, No. 439, § 1; 1997, No. 1307, § 2; 1999, No. 1549, § 10; 2001, No. 1220, § 6.

6-20-304. Acts 1995, No. 917, § 14.

6-20-305. Acts 1995, No. 917, § 13.

6-20-306. Acts 1995, No. 917, § 3; 1997, No. 1307, § 3.

6-20-307. Acts 1995, No. 917, § 3; 1997, No. 1307, § 4; 1999, No. 1549, § 11.

6-20-308. Acts 1995, No. 917, § 3; 1997, No. 1158, § 1; 1997, No. 1307, § 5; 1999, No. 1549, § 12.

6-20-309. Acts 1995, No. 917, § 3; 1997, No. 1307, § 7; 1999, No. 1549, § 13.

6-20-310. Acts 1995, No. 917, § 3; 1997, No. 1307, § 8; 1999, No. 100, § 11; 2001, No. 1220, § 7.

6-20-311. Acts 1995, No. 917, § 5; 1997, No. 1307, § 9; 1999, No. 1549, § 14.

6-20-312. [Repealed.]

A.C.R.C. Notes. The repeal of this section by Acts 1997, No. 1173, superseded the amendment of this section by Acts 1997, No. 1040, § 3. The amendment by Acts 1997, No. 1040, § 3, limited the tax to the year 1996.

Publisher's Notes. This section, concerning a tax surcharge, was repealed by Acts 1997, No. 1173, § 2. The section was derived from Acts 1995, No. 916 §§ 1, 2; 1995, No. 917, § 7.

6-20-313 — 6-20-318. [Repealed.]

Publisher's Notes. As to the repeal of these sections, see the Publisher's Notes at the beginning of this subchapter.

6-20-319, 6-20-320. [Repealed.]

Publisher's Notes. These sections, concerning other requirements for state aid and computation of classroom teacher salaries, were repealed by Acts 2003 (2nd Ex. Sess.), No. 59, § 4. The sections were derived from the following sources:

6-20-319. Acts 1983 (1st Ex. Sess.), No. 34, § 11; A.S.A. 1947, § 80-850.20; Acts 1987, No. 594, § 1; 1991, No. 401, §§ 9, 10; 1995, No. 917, § 15; 1995, No. 1194, § 23; 1999, No. 1549, § 17.

6-20-320. Acts 1995, No. 1194, § 11.

6-20-321. [Repealed.]

Publisher's Notes. As to the repeal of this section, see the Publisher's Notes at the beginning of this subchapter.

6-20-322. [Repealed.]

Publisher's Notes. This section, concerning enforcement mechanisms, was repealed by Acts 1999, No. 1549, § 18. The

section was derived from Acts 1995, No. 917, § 7.

6-20-323 — 6-20-327. [Repealed.]

Publisher's Notes. These sections, concerning special needs students, incentive revenues to encourage local millage, state equalization funding for natural disaster areas, districts losing revenues, and calculation and disbursement of funds authorized, were repealed by Acts 2003 (2nd Ex. Sess.), No. 59, § 4. The sections were derived from the following sources:

6-20-323. Acts 1997, No. 1307, § 11; 1999, No. 1549, § 19.

6-20-324. Acts 1997, No. 1307, § 6; 1999, No. 1549, § 20.

6-20-325. Acts 1999, No. 975, § 1.

6-20-326. Acts 1999, No. 1296, § 1; 1999, No. 1549, § 15.

6-20-327. Acts 1999, No. 1549, § 16.

SUBCHAPTER 4 — DISTRICT FINANCES**SECTION.**

6-20-401. Definitions.

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SECTION.

6-20-406. [Repealed.]

6-20-407. [Repealed.]

6-20-408. [Repealed.]

6-20-409. Petty cash fund.

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6-20-411. Interest-free loans from federal agencies.

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6-20-413. [Repealed.]

6-20-414. Public-public partnerships — Definition.

6-20-415, 6-20-416. [Repealed.]

SECTION.

6-20-417. Student awards — Definition.

Preambles. Acts 1969, No. 76 contained a preamble which read: "Whereas, the laws of Arkansas prohibit school districts from incurring obligations in any school year in excess of the revenues for that year; and

"Whereas, the school fiscal officer and the county treasurer are jointly liable for the issuance, signing and payment of any warrant in violation of said laws; and

"Whereas, said laws do not provide ample safeguards whereby the county treasurer may evaluate school district warrants to determine that the fiscal laws are being complied with, and thereby impose an unfair obligation upon the county treasurer in making him liable for warrants issued in violation of such law; and

"Whereas, clarification of the duties of the school fiscal officer and the county treasurer with respect to payment of school district warrants is necessary in order that the duties and obligation of each of said offices may be more clearly defined ... "

Effective Dates. Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1939, No. 194, § 4: Mar. 9, 1939. Effective date clause provided: "All laws and parts of laws in conflict herewith are hereby repealed and this Act shall be in

full force and effect from its passage and approval."

Acts 1949, No. 286, § 4: Mar. 19, 1949. Effective date clause provided: "All laws and parts of laws in conflict are hereby repealed and this Act shall be in full force and effect from its passage and approval."

Acts 1958 (2nd Ex. Sess.), No. 3, § 2[3]: Aug. 29, 1958. Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the State of Arkansas; (1) that in many of the school districts of the state there has been, in 1958, a significant increase in assessed valuations, making it possible to reduce the local school tax rate in the annual school election to be held in December 1958; (2) that the method of computing the net proceeds of local taxes for school purposes, based upon tax rates pledged for debt service when assessments were much lower will create a financial hardship unless an alternate method is provided; and (3) that only the provisions of this Act will alleviate the aforementioned situation. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the preservation of the public peace, health, and safety, shall take effect and be in full force from and after the date of its passage and approval."

Acts 1969, No. 76, § 4: Feb. 20, 1969. Emergency clause provided: "There is hereby found and determined by the General Assembly that the existing laws of this State making a county treasurer and his surety jointly liable with a school fiscal officer for payment of school warrants drawn in violation of the laws imposes an undue burden upon the county treasurer since he has no means by which to determine whether a school district's obligations drawn against the revenues of a particular school year may not have, in fact, been incurred in a different school year; and, that the immediate passage of this act is necessary to clarify said laws with respect to the duties and obligations of a school fiscal officer and the county treasurer in the expenditure of school district funds. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation

of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1977, No. 494, § 4: July 1, 1977. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is an urgent need to expand the authority of school districts to issue post-dated warrants and that such action will facilitate the operation of the school districts in this State; that under Amendment Number 7 to the Arkansas Constitution, acts without an emergency clause become effective ninety (90) days after final adjournment of the General Assembly; that it may be necessary to extend the Session, as authorized in Article 5, Section 17 of the Constitution, and that an extension of the Session might result in this Act not becoming effective until after July 1, 1977, unless an emergency is declared; and that it is essential that this Act go into effect on July 1, 1977. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall take effect and be in force from and after July 1, 1977."

Acts 1983, No. 438, § 4: Mar. 13, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is an urgent need to expand the authority of school districts to issue post-dated warrants and other evidence of indebtedness in order to facilitate the efficient operation of local school districts in this State. Therefore an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall take effect and be in force from and after its passage and approval."

Acts 1985, No. 223, § 3: Feb. 28, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is an urgent need to clarify and expand the authority of school districts so as to specifically authorize them to enter into installment contracts to acquire property and services which are authorized by law, without the cumbersome preparation of numerous warrants in advance, so as to facilitate the efficient operation of local school districts in this State. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public

peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1987 (1st Ex. Sess.), No. 19, § 3: June 12, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that present law is unclear as to whether school districts may accept interest-free loans from the federal government; that this Act provides a mechanism for the acceptance of such loans by school districts; and that this Act should be given immediate effect in order to allow school districts to take advantage as soon as possible of interest-free loans provided by federal agencies. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 105, § 6: Feb. 20, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that the current method of collecting property taxes which fund school districts severely limits a school district's ability to meet all obligations during the months in which the district must operate prior to the final settlement from the county; that it has been a long established practice that lending institutions make moneys available to school districts to assist during such time; that the law needs clarification to permit this practice to continue; that this act is designed to provide such clarification and should be given effect immediately to insure that such practice is permitted to continue. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 401, § 19: July 1, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the effectiveness of this act on July 1, 1991 is essential to the operation of the Arkansas Department of Education and the various school districts of this state; that the various changes reflected in this act require implementation on a day certain before the beginning of the upcoming school year; and that in the event of an extension

of the Regular Session, the delay in the effective date of this act beyond July 1, 1991 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1991."

Acts 1993, No. 314, § 6: Mar. 2, 1993. Emergency clause provided: "The General Assembly hereby defines and determines that the authorization herein for the withholding of state aid to cure payment deficiencies by school districts will permit Arkansas school districts to borrow money for current needs on favorable terms without providing letters of credit or other credit enhancement, and that this legislation must be in effect in order to permit these benefits to school districts participating in the pooled cash flow program for the 1993-94 school year. Therefore, an emergency is declared to exist and this Act, being necessary for the preservation of the public peace, health and safety, shall be in full force and effect immediately upon its adoption and approval."

Acts 1997, No. 962, § 8: Mar. 31, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that school districts in Arkansas urgently need a way to finance the purchase and installation of energy conservation measures that reduce energy consumption and operating costs of school facilities, and that create a better quality and safer learning environment; and it is necessary that school districts be able to pay for the energy conservation measures over a period of ten (10) years in order for the savings generated from the energy conservation measures to pay for the energy conservation measures. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall

become effective on the date the last house overrides the veto."

Acts 1997, No. 1307, § 19: Apr. 10, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the immediate effectiveness of this act is essential to the operation of the Department of Education and local school districts in the calculation of funding for public education and that any delay could work irreparable harm to the Department and the local districts. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1329, § 6: Apr. 10, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that providing bondholders with additional security for payment of school district bonds will permit Arkansas school districts to issue bonds on more favorable terms and at lower rates of interest, and that this legislation must be in effect in order to permit these benefits to school districts who urgently need to finance capital improvements to their physical facilities and who need to refund certain outstanding bonds that will provide substantial savings to the school district. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1078, § 92: July 1, 2000.

Acts 2001, No. 1220, § 20: July 1, 2001. Emergency clause provided: "It is found

and determined by the General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that to not do so would create confusion in the state's public school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2001, No. 1456, § 9: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly that educators are compensated on an annual basis beginning in July and ending in June. It is further determined that the change in compensation practices embodied in this act must take place in the same time frame as normal compensation practices or confusion among school districts and educators would ensue. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2005, No. 1866, § 2: Apr. 8, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that in order to meet the urgent needs of the school districts, the districts need the ability to finance those needs as quickly as possible and at the best possible interest rates; that the school districts also need a way to pay the costs of issuing postdated warrants or entering into installment contracts or lease purchase agreements that are being used to finance needs of the districts; and that this act is immediately necessary to correct the deficiencies in the current law. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Identical Acts 2006 (1st Ex. Sess.), Nos. 22 and 23, § 6: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the

State of Arkansas that the Arkansas Supreme Court found that the public school funding system continues to be inadequate and the public schools are operating under a constitutional infirmity that must be corrected immediately; that statutory limitations on bonded indebtedness for school districts may impair some school districts' ability to raise local resources necessary for the repair, improvement, and replacement of academic facilities; that legislative correction is immediately necessary in order to allow school districts, particularly school districts experiencing rapid growth, to use all available revenue streams in providing an adequate opportunity for an adequate education to every public school student in the state. Therefore, an emergency is declared to exist and this act being necessary for the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is

found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secre-

taries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-20-401. Definitions.

As used in this subchapter:

(1) "Current indebtedness" means a debt obligation incurred by a school district for the purpose of paying maintenance or general operation expenses for the fiscal year in which the debt is incurred or for a purpose for which a postdated warrant, installment contract, or lease-purchase agreement may be issued;

(2) "Energy conservation measure" means any improvement, repair, alteration, or betterment of any new building design or any existing building or facility owned or operated by a school district or any equipment, fixture, or furnishing to be added to or used in any building or facility that is designed to reduce energy consumption or operating costs and may include, without limitation, one (1) or more of the following:

(A) Insulation of the building structure or systems within the building;

(B) Storm windows or doors, caulking or weather stripping, multi-glazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption;

(C) Automated or computerized energy control systems;

(D) Heating, ventilating, or air conditioning system modifications or replacements;

(E) Replacements or modifications of lighting fixtures to increase the energy efficiency of the lighting system;

(F) Indoor air quality improvements to increase air quality that conform to the applicable state or local building code requirements even in lieu of an increase in energy usage;

(G) Any additional building infrastructure improvements, cost savings, and life safety or other safety or conservation measures that provide long-term operating cost reductions and are in compliance with state and local codes; and

(H) Building operation programs that reduce operating costs;

(3)(A) "Nonrevenue receipts of a school district" means those receipts which either incur an obligation which must be met at some future date or which change the form of an asset from property to cash.

(B) Specifically, they consist of the proceeds of a bond sale, payment of losses on an insurance policy, the receipts from the sale of property, etc.; and

(4) “Revenue receipts of a school district” means those receipts that do not result in increasing school indebtedness or in depleting school property. Specifically, revenue receipts of a school district for any fiscal year shall consist of the following funds:

(A) Net cash balance on hand at the beginning of the school fiscal year, July 1;

(B) The remaining net proceeds of local taxes collected in the calendar year in which the school fiscal year started;

(C)(i) For the 2011-2012 school year, the proceeds of the local taxes collected by June 30 in the succeeding calendar year. If the amount collected is less than thirty-six percent (36%) of the proceeds of the local taxes that are not pledged to secure bonded indebtedness, the amount necessary to equal thirty-six percent (36%) may be accrued.

(ii) The percentage under subdivision (4)(C)(i) of this section shall be reduced by four percent (4%) each subsequent school year until it is zero (0), as follows:

- (a) Thirty-two percent (32%) in the 2012-2013 school year;
- (b) Twenty-eight percent (28%) in the 2013-2014 school year;
- (c) Twenty-four percent (24%) in the 2014-2015 school year;
- (d) Twenty percent (20%) in the 2015-2016 school year;
- (e) Sixteen percent (16%) in the 2016-2017 school year;
- (f) Twelve percent (12%) in the 2017-2018 school year;
- (g) Eight percent (8%) in the 2018-2019 school year;
- (h) Four percent (4%) in the 2019-2020 school year; and
- (i) Zero percent (0%) in the 2020-2021 school year.

(iii) Declining balances attributed solely to a school district’s compliance with the requirements of subdivision (4)(C)(ii) of this section shall not be considered an indicator of fiscal distress; and

(D) The net proceeds of all other funds accrued or placed to the credit of the district during the fiscal year from regular revenue sources, including without limitation state and federal funding.

History. Acts 1939, No. 194, § 2; 1949, No. 150, § 1; 1958 (2nd Ex. Sess.), No. 3, § 1; A.S.A. 1947, § 80-1002; Acts 1989, No. 105, § 1; 1993, No. 314, § 1; 1997, No. 962, § 1; 1997, No. 1307, § 10; 2005, No. 2156, § 1; 2011, No. 871, § 1.

A.C.R.C. Notes. A portion of subdivision (4)(C)(ii)(i) was inadvertently omitted from the final version of Acts 2011, No. 871, § 1. The section is set out above to include the omitted language.

6-20-402. Limitation on current indebtedness — Postdated warrants and installment contracts — Liability.

(a)(1)(A) The amount of obligations incurred by a school district for any school fiscal year shall not be in excess of the revenue receipts of the district for that year except as provided in this section and in § 6-20-801 et seq.

(B) A school district or public charter school may enter into public-private partnerships whereby the school district or public charter school enters into a lease-purchase agreement for the acquisition or construction of a school building or related facilities built or acquired by the private entities with facilities bonds exempt from federal taxes under 26 U.S.C. § 142(a)(13), as it existed on January 1, 2003, or otherwise exempt under 26 U.S.C. § 103, as it existed on January 1, 2005.

(2) A school district may issue postdated warrants or enter into installment contracts or short-term lease-purchase agreements for the following purposes:

- (A) Purchase of school buses;
- (B) Payment of premiums of insurance policies on school buildings, facilities, and equipment in instances in which the insurance coverage extends three (3) years or longer;
- (C)(i) Purchase of equipment.
 - (ii) However, purchase of equipment does not include separate equipment service agreements, equipment repair contracts, or extended warranties for the equipment;
- (D) Installation or purchase, or both, of energy conservation measures in school facilities;
- (E) Construction, repair, and renovation of school facilities;
- (F) Purchase of school sites;
- (G) Payment on loans secured for settlement resulting from litigation against a school district;
- (H) Payment of the district's pro rata part of employing professional appraisers as authorized by laws providing for the appraisal or reappraisal and assessment of property for ad valorem tax purposes; and
- (I) The professional development and training of teachers or other programs authorized under the federally recognized qualified zone academy bond program codified at 26 U.S.C. § 1397E [repealed].

(3) School districts may issue postdated warrants or enter into installment contracts or lease-purchase agreements in an amount sufficient to accomplish the purposes listed in subdivision (a)(2) of this section and to pay the costs of issuing the postdated warrants or entering into the installment contracts or lease-purchase agreements.

(b)(1)(A) Except as provided in subdivisions (b)(1)(B) and (C) of this section, a postdated warrant, a short-term lease-purchase agreement, or an installment contract must be paid within ten (10) years of the date of issuance of the postdated warrant or the execution of the written lease-purchase agreement or installment contract, as the case may be.

(B)(i) A school district's acquisition of energy conservation measures under § 6-20-405 may be financed by the school district over a twenty-year period after the execution by the school district of the postdated warrant, lease-purchase agreement, or installment contract.

(ii) However, no financing shall exceed the reasonably expected useful life of the energy facilities or equipment subject to the energy savings contract in favor of either a qualified provider or a third-party financing company designated by a qualified provider.

(C) A long-term lease-purchase agreement allowed under subdivision (a)(1)(B) of this section:

(i) Shall be paid within thirty (30) years of the date of the execution of the written lease-purchase agreement; and

(ii)(a) May contain a provision allowing the school district an option to terminate the agreement at the end of any fiscal year for the school district.

(b)(1) Any long-term lease containing an option to terminate at the end of a fiscal year shall not be included in the calculation of the debt ratio applicable to that school district.

(2) Any long-term lease allowed under subdivision (a)(1)(B) of this section that does not contain an option to terminate at the end of the fiscal year shall be included in the calculation of the debt ratio applicable to that school district.

(iii) All school buildings or related facilities shall comply with the requirements of the Arkansas School Facilities Manual in effect at the time the lease became effective.

(D)(i) A school district may sublease a portion of a school building or facility whenever that building or facility is not being used for educational purposes.

(ii) Rent received from a sublease:

(a) Shall be deposited into the school district's general fund; and

(b) May be used for any operational or capital purpose.

(E) Postdated warrants, lease-purchase agreements, and installment contracts must be registered on forms provided or approved by the State Board of Education with the treasurer of the district and the state board.

(2)(A) A lease-purchase agreement, postdated warrant, and installment contract must have attached thereto a schedule of the rent or installments to be paid, showing:

(i) The payee and any assignee;

(ii) The school district;

(iii) The purpose of the purchase or payment;

(iv) The due date of each installment; and

(v) The amount of principal and interest of each installment and the fiscal year in which the installment is to be paid.

(B) A copy of each contract and of the schedule of payments shall be filed with the treasurer of the district and with the state board, and when so filed, each installment may be paid as it becomes due.

(3)(A) Except as provided in subdivision (b)(3)(B) of this section, the unpaid principal amount of postdated warrants issued and installment contracts and lease-purchase agreements entered into shall be a part of the total debt of the district as limited by § 6-20-803 with the district fiscal officer and his or her surety liable for exceeding the limitations.

(B) The unpaid principal amount of postdated warrants, lease-purchase agreements, or installment contracts entered into in connection with a guaranteed energy savings contract under § 6-20-405 shall not be a part of the total debt of the district.

(4) A copy of any guaranteed energy savings contract that is executed in connection with the acquisition, installation, or construction of energy conservation measures under this section shall be filed with the Division of Elementary and Secondary Education.

(5) Payments by a school district pursuant to postdated warrants, installment contracts, and lease-purchase agreements shall be charged against the budget of the school fiscal year in which they become due and shall be paid out of the revenue receipts for that fiscal year.

(6) All warrants issued or installment contracts and lease-purchase agreements entered into in excess of the revenue of a school district for a school fiscal year are null and void except as provided in this section.

(7)(A) It shall be the duty of the school fiscal officer to indicate on each school district warrant or on the schedule of payments attached to a written installment contract or lease-purchase agreement the school year's revenues against which the obligation was incurred and is to be paid.

(B) It shall be unlawful for the school fiscal officer to issue a school district warrant or to enter into an installment contract or lease-purchase agreement the installments for which are to be charged against the revenues of a school year if the obligation thereof was incurred in a different school year except as otherwise authorized in this section.

(8) The school fiscal officer may comply with the provisions of this section by indicating on each warrant or schedule of payments attached to any installment contract or lease-purchase agreement the school year's revenues against which each payment is to be charged, or he or she may use a warrant of a distinct color for a particular year and shall advise the county treasurer, if the county treasurer serves as the school district treasurer, in writing of the color of warrant being used for credit against the revenues of a particular year.

(9) The county treasurer, or the district treasurer if the school district has its own treasurer, and his or her surety shall be jointly liable with the school fiscal officer and his or her surety for the payment of any school warrant or payment on a contract or agreement that is charged against the revenues of a school year if the amount thereof is in excess of the revenue receipts of the district for the school year against which the school fiscal officer has indicated the payment is to be charged or if he or she approved the payment with knowledge that the payment is being charged by the school fiscal officer against the revenues of another school year in violation of this section.

(10) It is the purpose and intent of this section to place primary responsibility on the school fiscal officer and his or her surety for compliance with the provisions of this section and to make the county treasurer, or district treasurer if the school district has its own

treasurer, and his or her surety liable for any payment on a warrant, contract, or agreement drawn in violation of this section when the amount of the payment exceeds the revenue receipts of the district for the school year against which it is charged as indicated on the warrant, contract, or agreement or when the county treasurer approves a payment with the knowledge that it is in payment of an obligation of a different school year as prohibited in this section.

(c)(1) A school district may refinance one (1) or more outstanding postdated warrants, lease-purchase agreements, or installment contracts and pay the usual, customary, and reasonable costs of the refinancing by issuing one (1) postdated warrant, lease-purchase agreement, or installment contract if the refinancing:

(A)(i) Results in a net savings to the school district.

(ii) A net savings results if the outstanding principal balance plus the remaining interest payments and any early call penalties are greater than the new principal balance plus the total interest to be paid and the cost of the refinancing of the outstanding postdated warrant, lease-purchase agreement, or installment contract;

(B) Does not extend the term of the postdated warrant, lease-purchase agreement, or installment contract more than five (5) years beyond the term of the existing individual outstanding postdated warrants, lease-purchase agreements, or installment contracts, and if the original term together with any extension does not exceed ten (10) years;

(C) Does not increase the outstanding debt owed by the school district under the existing outstanding postdated warrants, lease-purchase agreements, or installment contracts except to the extent necessary to cover usual, customary, and reasonable costs of issuance of the new refunding postdated warrant, lease-purchase agreement, or installment contract and except to the extent necessary for new financing as authorized by subsection (a) of this section;

(D)(i) Except as allowed under subdivision (c)(1)(D)(ii) of this section, the outstanding postdated warrants, lease-purchase agreements, or installment contracts have not been previously refinanced.

(ii) Any outstanding postdated warrants, lease-purchase agreements, or installment contracts may be refinanced more than one (1) time if:

(a) The school district realizes a savings from the refinancing;

(b) The term of the debt obligation is not extended; and

(c) The refinancing does not increase the total debt obligation of the school district; and

(E) The school district obtains the prior written approval of the division to refinance one (1) or more outstanding postdated warrants, lease-purchase agreements, or installment contracts.

(2) The state board may promulgate rules as necessary to implement subdivision (c)(1) of this section.

(d)(1) A school district may incur current indebtedness and issue its notes or other evidence thereof as provided in this subsection.

(2) All current indebtedness incurred in a fiscal year shall mature on or before December 31 of the calendar year in which the fiscal year ends.

(3) Current indebtedness is not included in the term “bonded indebtedness” and shall not be considered a part of the total debt of a district as limited by § 6-20-803.

(4) Current indebtedness shall be payable from and may be secured by a pledge of all or any part of the revenue receipts of the issuing district for the fiscal year in which the debt is incurred.

(5) The amount of obligations incurred by a school district for any school fiscal year, including current indebtedness, shall not be in excess of the revenue receipts of the district for that year except as expressly authorized in subsection (a) of this section.

(6) Upon incurring current indebtedness, the school district shall notify the division of the indebtedness, on forms provided by the division, showing the:

- (A) Payee and any assignee;
- (B) School district;
- (C) Purpose of the indebtedness;
- (D) Maturity date of the indebtedness;
- (E) Amount borrowed and interest rate of indebtedness; and
- (F) Amortization schedule showing installments, if applicable.

(e)(1)(A)(i) Except as provided in subdivision (e)(1)(B) of this section, as additional security for the payment of any postdated warrant, installment contract, lease-purchase agreement, or current indebtedness of a school district authorized under subdivision (a)(2) of this section, the district may authorize the state board to cure any delinquencies of the school district by withholding state foundation funding due the district.

(ii) Authorization shall be given by the school district at the time that the postdated warrant, installment contract, or lease-purchase agreement is issued or the current indebtedness authorized under subdivision (a)(2) of this section is incurred and shall be given in the manner and in the form that the state board shall prescribe.

(B) A school district may not authorize the state board to cure and the state board shall not cure any delinquencies of the district in contracts or extended warranties on equipment by withholding state foundation funding due the district.

(2)(A) If a school district has authorized withholding of its state foundation funding under subdivision (e)(1)(A) of this section and the school district has failed to pay the payee or paying agent amounts due under a postdated warrant, installment contract, or lease-purchase agreement described in subdivision (a)(2) of this section, the payee or paying agent shall be entitled to payment from the school district’s withheld state foundation funding if the payee or paying agent:

(i) Obtains a final judgment establishing the payee’s or paying agent’s right to payment from the school district under a postdated

warrant, installment contract, or lease-purchase agreement described in subdivision (a)(2) of this section; and

(ii) Submits a written request for payment of the amount of the unpaid judgment and a certified copy of the final judgment to the Commissioner of Elementary and Secondary Education and the superintendent of the school district.

(B)(i) Except as provided in subdivision (e)(1)(B) of this section, unless the superintendent of the school district certifies in writing to the commissioner that payment has been made by the district to the payee or the paying agent and the judgment has been paid in full, the commissioner shall withhold from the next distribution to the school district of state foundation funding and remit to the payee or paying agent an amount sufficient to pay the judgment amount.

(ii) If the amount withheld under subdivision (e)(2)(B)(i) of this section is insufficient to pay the judgment in full, the commissioner shall continue withholding subsequent distributions of state foundation funding to the school district until the superintendent certifies to the commissioner that the judgment is paid in full.

(3) In the event that the amount next due to be distributed to the delinquent district is not sufficient to cure the delinquency, the commissioner shall continue to withhold state aid as due and remit it to the payee or paying agent until the payment deficiency has been cured.

(4) If the commissioner is notified that a district is delinquent on two (2) or more obligations for which a district has authorized withholding of state aid to cure a delinquency, the commissioner shall make payment to payees or paying agents in the order of receipt of notices of the delinquencies.

(f) If the state board withholds state aid from a school district under subsection (e) of this section, the school district shall be identified by the division to be a school district in fiscal distress under § 6-20-1906.

(g) Any duties required of any officer of the state pursuant to subsection (e) of this section shall be only ministerial in nature and shall in no way transfer any liability of the debtor to the state or any agency or any officer thereof.

(h) The rate of interest on postdated warrants, installment contracts, lease-purchase agreements, and current indebtedness shall not exceed the maximum interest rate for school bonds as determined under § 6-20-1206.

History. Acts 1939, No. 194, § 3; 1949, No. 150, § 2; 1969, No. 76, § 1; 1977, No. 494, § 1; 1981, No. 550, § 1; 1983, No. 438, § 1; 1985, No. 223, § 1; A.S.A. 1947, § 80-1003; Acts 1989, No. 105, §§ 2, 3; 1991, No. 401, § 15; 1993, No. 314, § 2; 1995, No. 233, § 11; 1997, No. 962, §§ 2, 3; 1997, No. 1265, § 1; 1997, No. 1329, § 2; 2001, No. 1220, §§ 8-10; 2003, No. 840, § 1; 2003, No. 1754, §§ 1, 2; 2003 (2nd Ex. Sess.), No. 58, §§ 1, 2; 2005, No.

1866, § 1; 2005, No. 2005, § 1; 2005, No. 2121, §§ 12, 23; 2005, No. 2156, § 2; 2005, No. 2177, § 1; 2006 (1st Ex. Sess.), No. 22, §§ 1-3; 2006 (1st Ex. Sess.), No. 23, §§ 1-3; 2007, No. 827, §§ 114, 115; 2009, No. 1469, § 9; 2013, No. 1073, § 32; 2015, No. 846, § 10; 2017, No. 741, § 4; 2019, No. 315, § 273; 2019, No. 910, §§ 1593-1597.

A.C.R.C. Notes. Prior to the amendment by Acts 2005, No. 2177, § 1, the

word “years” followed “ten (10)” in subdivision (b)(1)(A) but was neither set out in Act 2177 nor specifically stricken.

Amendments. The 2017 amendment added (d)(6).

The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (c)(2).

The 2019 amendment by No. 910 substituted “Division of Elementary and Sec-

ondary Education” for “Department of Education” in (b)(4); substituted “division” for “department” in (c)(1)(E), twice in the introductory language of (d)(6), and in (f); and substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (e)(2)(A)(ii).

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2001 Arkansas General As-

sembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

CASE NOTES

ANALYSIS

In General.

Purpose.

Determination of Indebtedness.

Leases.

In General.

This section did not repeal power of a school district to borrow money and pay interest therefor to finance teachers' salaries and other current expenses, but repealed the power to borrow from the next year's revenue. *Jenson v. Special School Dist. No. 6*, 199 Ark. 886, 136 S.W.2d 169 (1940).

Purpose.

The purpose of this section was to prohibit school districts from continuing to pile up nonbonded indebtedness and to limit them in the obligations incurred in any fiscal year to the amount of revenue for that year. *Jenson v. Special School*

Dist. No. 6, 199 Ark. 886, 136 S.W.2d 169 (1940).

Determination of Indebtedness.

This section authorized school districts to incur obligations during any school year in a sum not in excess of the revenue for that year, without regard to previously existing indebtedness, and, if district pays a portion of the indebtedness out of current revenue, it may incur current indebtedness in a like sum. *Jenson v. Special School Dist. No. 6*, 199 Ark. 886, 136 S.W.2d 169 (1940).

Leases.

An education service cooperative could validly enter into a 5-year lease without violating this section. *Ozarks Unlimited Resources Coop. v. Daniels*, 333 Ark. 214, 969 S.W.2d 169 (1998).

Cited: *Heskett v. McRee*, 215 Ark. 328, 220 S.W.2d 422 (1949).

6-20-403. Authority to draw warrants — Countersignature.

The school district board of directors is authorized to draw warrants on the county treasurer when the county treasurer serves as treasurer of the school district for all funds to be disbursed by it, such warrants to be countersigned by the agent authorized under § 6-17-918, as countersignature is expressly required by law.

History. Acts 1931, No. 169, § 141; A.S.A. 1947, § 80-1004; Acts 1993, No.

294, § 13; 1995, No. 233, § 12; 1999, No. 1078, § 79.

CASE NOTES

Mandamus.

Mandamus will not lie to compel a county superintendent to countersign an illegally issued school warrant. Bingham

v. McGehee, 185 Ark. 707, 49 S.W.2d 358 (1932).

Cited: Heskett v. McRee, 215 Ark. 328, 220 S.W.2d 422 (1949).

6-20-404. Issuance of warrants to pay school bonds — Description of indebtedness.

(a) All maturities of principal and interest of school bonds shall be paid by issuing warrants against the funds authorized by law for paying bonded indebtedness.

(b) A description of the bonded debt that is being paid shall be written on the face of each warrant issued for this purpose. The description shall be as follows:

- (1) Number and date of issue of each bond that is being paid; and
- (2) Number and maturity date of each interest coupon and the number and date of each bond from which each interest coupon will be detached when paid.

(c) Warrants issued for the purpose of paying school bonded indebtedness that do not carry the description of such indebtedness as named in subsection (b) of this section are void.

(d) It shall be the duty of the county treasurer, or district treasurer if the school district has its own treasurer, to record in a book the description of the bonded indebtedness that is being paid by each warrant before he or she cashes it.

(e) The county treasurer, or district treasurer if the school district has its own treasurer, and his or her bondsmen shall be liable for the amount of warrants cashed that were issued directly or indirectly in payment of principal or interest of school bonds which do not carry the description as required by this section and which were not recorded as required in subsection (d) of this section.

History. Acts 1937, No. 354, §§ 1-4; §§ 80-1009 — 80-1012; Acts 1995, No. Pope's Dig., §§ 11651-11654; A.S.A. 1947, 233, § 13.

6-20-405. Energy savings contract — Definitions.

(a) As used in this section:

(1)(A) "Energy savings contract" means a contract for the implementation of one (1) or more energy conservation measures as defined in § 6-20-401 and shall include an investment grade preinstallation energy audit and analysis.

(B) The contract may provide that all payments except obligations on termination of the contract before its expiration are to be made over time and that the energy cost savings are guaranteed by the qualified provider to the extent necessary to pay all of the costs of the energy conservation measures, including all costs of financing and annual services that may include the measurement and verification of the guaranteed savings.

(C) The energy conservation measures to be performed under the contract may be paid for with any combination of revenue or nonrevenue receipts of a school district or, alternatively, financed by the issuance of postdated warrants or entering into installment contracts, or lease-purchase agreements.

(D) Obligations incurred pursuant to a guaranteed energy savings contract are not included in computing a school district's debt ratio.

(E) If an energy savings contract is to be executed concurrently with one (1) or more conventional construction contracts for a common structure, the energy savings contract shall be separate and distinct from the other contract;

(2)(A) "Qualified provider" means the same as defined in § 19-11-1202.

(B) A qualified provider to whom the contract is awarded:

(i) Shall be required to provide a payment and performance bond to the school district for its faithful performance of the equipment installation; and

(ii) May be required to provide a letter of credit, surety bond, escrowed funds, or a corporate guarantee from a company with an investment grade credit rating in an amount necessary to ensure the effective performance of the contract; and

(3)(A) "Request for qualifications" means a negotiated procurement.

(B)(i) Notice of the request for qualifications shall be published one (1) time each week for no less than two (2) consecutive weeks in a newspaper of statewide circulation.

(ii) Responses shall be sealed and opened in a public forum at a date within thirty (30) days from the last publication, at which point the school district shall evaluate the qualifications.

(b) The school district may select the qualified provider or providers best qualified and capable of performing the desired work and negotiate an energy savings contract for the project.

(c)(1) A school district may enter into a guaranteed energy savings contract with a qualified provider if it finds that the amount it would spend on the energy conservation measures detailed in the contract would not exceed the amount to be saved in any combination of energy costs or operational costs or future capital expenditures avoided within a twenty-year period from the date of installation if the recommendations in the proposal are followed.

(2) The qualified provider's proposal shall include:

(A) The estimates of all costs of installation, modifications, or remodeling, including without limitation costs of an investment grade preinstallation energy audit and analysis, design, engineering, installation, commissioning, maintenance, repairs, debt service, post-installation project monitoring, savings measurement and verification, and data collection and reporting, as well as whether energy consumed or the operating costs, or both, will be reduced;

(B) The qualifications of the provider;

(C) The amount and specific sources of operational savings and capital cost avoidance that the school district acknowledges will occur without future measurement and verification;

(D) A statement from an Arkansas-licensed professional engineer that he or she was a member of the qualified provider's project team that completed a comprehensive energy audit and analysis of the school district's facilities; and

(E) The reasonably expected useful life of each recommended energy conservation measure.

(3)(A) Except as provided in subdivision (c)(3)(C) of this section, before entering into any energy savings contract, the contract shall be reviewed by an engineer who is:

(i) Licensed in the State of Arkansas; and

(ii) Designated by the division as qualified to review energy savings contracts.

(B)(i) The engineer conducting the contract review shall report to the school district any comments or issues that he or she believes merit consideration by the district before the district executes the energy savings contract.

(ii) The engineer shall bear no liability for any estimation of energy savings generated as part of a contract review under this subdivision (c)(3).

(C) Third-party review as provided in this subdivision (c)(3) shall not be required if the qualified provider demonstrates that the provider is a current member in good standing of the Energy Service Company or Energy Service Provider category of the National Association of Energy Service Companies.

(d)(1) The qualified provider shall provide to the school district an annual reconciliation report of the guaranteed energy-use savings.

(2) The qualified provider shall reimburse the school district for any annual shortfall of guaranteed energy-use savings as stated in the contract.

(e) This section shall constitute the sole authority necessary to accomplish the purposes of this section without regard to compliance with other laws that specify procedural requirements for execution of contracts.

(f) A school district may provide by resolution that the school district shall comply with the rules promulgated by the Arkansas Pollution Control and Ecology Commission under the Guaranteed Energy Cost Savings Act, § 19-11-1201 et seq.

History. Acts 1997, No. 962, § 4; 2001, No. 1717, § 1; 2003 (2nd Ex. Sess.), No. 58, § 3; 2005, No. 2156, § 3; 2007, No. 659, § 1; 2019, No. 507, §§ 1, 2.

Publisher's Notes. Former § 6-20-405, concerning registration and inspec-

tion of warrants, was repealed by Acts 1992, No. 294, § 13. The section was derived from Acts 1937, No. 84, § 1; Pope's Dig., § 11647; A.S.A. 1947, § 80-1005.

Amendments. The 2019 amendment rewrote (a)(2)(A); and added (f).

6-20-406. [Repealed.]

Publisher's Notes. This section, concerning the endorsement, record, payment, and reregistration of warrants, was repealed by Acts 1992, No. 294, § 13. The

section was derived from Acts 1937, No. 84, § 2; Pope's Dig., § 11648; A.S.A. 1947, § 80-1006.

6-20-407. [Repealed.]

Publisher's Notes. This section, concerning fraudulent issuance of warrants, was repealed by Acts 2015, No. 846, § 11. The section was derived from Acts 1874

(Spec. Sess.), No. 14, § 8, p. 18; C. & M. Dig., § 9101; Pope's Dig., § 11724; A.S.A. 1947, § 80-1014.

6-20-408. [Repealed.]

Publisher's Notes. This section, concerning prohibition on purchasing interest in warrants, was repealed by Acts 1995, No. 233, § 21. The section was de-

rived from Acts 1931, No. 169, § 181; 1937, No. 84, § 4; Pope's Dig., §§ 3595, 11623, 11650; A.S.A. 1947, §§ 80-1008, 80-1013.

6-20-409. Petty cash fund.

(a) In order to simplify and expedite fiscal affairs of school districts relating to the payment of miscellaneous items of expenditures incident to their operation, any school district is authorized to create a fund for each school within a district to be known as the "petty cash fund".

(b) No payment shall be made from the petty cash fund until the supplies or materials have been delivered and a copy of the invoice or invoices filed with the approval of the school district board of directors.

(c)(1) As funds in the petty cash fund become depleted, the financial secretary of the school district shall draw a warrant upon the county treasurer, or district treasurer if the school district has its own treasurer, payable out of the appropriate fund for reimbursement of expenditures made from the petty cash fund.

(2) The financial secretary of the school district shall attach to the office copy of the warrant the original invoice or receipt of payment therefor of all expenditures made from the petty cash fund during the previous month.

(d) The balance to the credit of the petty cash fund shall at no time exceed the sum of two hundred dollars (\$200) for each school within a district.

History. Acts 1949, No. 286, §§ 1-3; A.S.A. 1947, §§ 80-1018 — 80-1020; Acts 1995, No. 233, § 14; 1999, No. 47, § 1.

6-20-410. School fiscal year.

The school fiscal year for Arkansas shall consist of the twelve-month period beginning July 1 and ending on the following June 30.

History. Acts 1939, No. 194, § 1; A.S.A. 1947, § 80-1001.

6-20-411. Interest-free loans from federal agencies.

(a)(1) The public school districts of this state are authorized to accept interest-free loans from agencies of the United States Government if incurring the indebtedness is approved by the State Board of Education.

(2) The state board shall not grant its approval unless it is satisfied that the projected revenues and expenses of the school district during the duration of the loan indicate that the school district will be able to retire the debt.

(b) Furthermore, all such loans accepted by public school districts before June 12, 1987, are ratified and declared valid.

History. Acts 1987 (1st Ex. Sess.), No. 19, § 1.

6-20-412. Nonrecurring salary payments.

(a) A school district in this state may pay licensed personnel a nonrecurring salary payment from revenues not considered to be recurring sources of revenue.

(b) A nonrecurring salary payment under this section shall not increase the base salary of the recipient for purposes of calculation of future salary requirements.

(c) A nonrecurring salary payment under the provisions of this section shall be divided equally among licensed personnel employed by the school district at the time approved by the board of directors of the school district unless the board of directors and a majority of the licensed personnel agree to a different distribution.

(d) A payment to a targeted educator made in the form of a supplement as an addendum to a contract in fulfilling this section, and § 6-5-307(a) shall not be considered a nonrecurring salary payment under this section.

History. Acts 1989, No. 268, § 1; 2001, No. 1456, § 8; 2009, No. 376, § 38; 2011, No. 989, § 62.

6-20-413. [Repealed.]

Publisher's Notes. This section, concerning indicators of fiscal distress in school districts, was repealed by Acts 2007, No. 1573, § 47. The section was derived from Acts 1992 (1st Ex. Sess.), No. 53, § 2.

6-20-414. Public-public partnerships — Definition.

(a) As used in this section, “public-public partnership” means a project delivery method in which a school district may enter into a contract to partner with another governmental agency, political subdi-

vision, or institution of higher education to meet a clearly defined need for facilities, infrastructure, or goods and services.

(b) Any school district may use public-public partnerships as a project delivery method for the building, altering, repairing, improving, maintaining, or demolishing of any structure or any improvement to real property owned by the school district.

(c) The Division of Public School Academic Facilities and Transportation shall develop and promulgate rules consistent with the provisions of this section concerning the use of public-public partnerships by school districts.

History. Acts 2005, No. 1368, § 1.

6-20-415, 6-20-416. [Repealed.]

Publisher's Notes. These sections, concerning consultants, and desegregation funding, were repealed by Acts 2021, No. 544, §§ 35, 36, effective July 28, 2021. The sections were derived from the following sources:

6-20-415. Acts 2007, No. 395, § 2; 2009,

No. 242, § 1; 2011, No. 701, § 1; 2019, No. 910, §§ 1598, 1599.

6-20-416. Acts 2007, No. 395, § 2; 2008 (1st Ex. Sess.), No. 2, §§ 1, 2; 2009, No. 242, § 2; 2011, No. 624, § 1; 2011, No. 701, § 2; 2019, No. 910, §§ 1600-1607.

6-20-417. Student awards — Definition.

(a)(1) As used in this section, “net athletic event gate receipts” means the amount remaining from fees, including charges for reserved seating, collected for admission to a school district athletic event less any expenses, including any rental fee or any leasing cost for a facility used for the athletic event, paid by the school district from those gate receipts.

(2) “Net athletic event gate receipts” does not mean any portion of admission fees charged by a school district for an athletic event held at the school district or at a facility leased or rented by the school district that is remitted or passed through to another entity outside the school district.

(b)(1) If approved by the board of directors of a school district, a school district may use net athletic event gate receipts to purchase letter jackets, sweaters, blankets, plaques, or similar items as awards for student participation in school-sponsored activities.

(2) The school district shall not expend more than an average of one hundred dollars (\$100) per student per activity under subdivision (b)(1) of this section unless the school district has private funds that may be used for that purpose.

(c) Beginning July 1, 2007, a school district shall account for athletic gate receipts in a separate fund.

History. Acts 2007, No. 1043, § 1.

SUBCHAPTER 5 — FUNDS FOR CHILDREN WITH DISABILITIES AND FOSTER CHILDREN

SECTION.	SECTION.
6-20-501. Legislative determination.	6-20-507. Children with disabilities —
6-20-502. Definitions.	Hearing before hearing of-
6-20-503. Rules.	ficer.
6-20-504. Children living in foster homes.	6-20-508. Children with disabilities —
6-20-505. Children with disabilities —	Hearing and ruling by
Receiving district's re-	State Board of Education.
quest for funds.	6-20-509. Children with disabilities —
6-20-506. Children with disabilities —	Sending district's refusal
Approval or rejection of re-	to pay.
quest.	6-20-510. Confidentiality of records.

Cross References. Equality in expenditure for education of children with disabilities, § 6-41-220.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding

the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

RESEARCH REFERENCES

Ark. L. Rev. Gitelman and McIvor, Domicile, Residence and Going to School in Arkansas, 37 Ark. L. Rev. 843.

6-20-501. Legislative determination.

The General Assembly recognizes that:

- (1) Under present laws and practices, school students of this state may, for various reasons and purposes, be transferred or assigned to attend school in another district;
- (2) In many such instances, the respective school districts involved here have entered into agreements with respect to the financial rights and responsibilities of the respective school districts involved in student transfer and assignment and have made provision for the sharing in the cost of the education of the child mutually acceptable to both districts;
- (3) In many instances involving a child living in a foster home or a child with disabilities, as defined in this subchapter, the foster child or child with disabilities or the child's parent, guardian, or some other

person having custody of the child or standing in the relationship of loco parentis to the child, enters or seeks to enter a school district other than the school district in which the parents of the child reside and that gross inequities are worked upon the school district receiving the child if the district is unable to receive the state, local, and federal funds available to the sending district for the education of the child; and

(4) Fairness and equity demand that appropriate rules and regulations be adopted to define the relative rights and responsibilities of the involved school districts to share the educational funds received by a sending district to educate a child with disabilities or a child living in a foster home who attends school in another school district in this state if it is determined that it is in the best interest of the education of the child with disabilities to attend school in the receiving district, so long as attendance therein is not based upon racial or other reasons which are contrary to applicable federal or state laws and regulations.

History. Acts 1981, No. 815, § 2; A.S.A. 1947, § 80-739; Acts 1993, No. 294, § 13.

6-20-502. Definitions.

As used in this subchapter:

(1)(A) "Child living in a foster home" means a school-age child in this state who is in the custody of the Department of Human Services and placed in a licensed or approved foster home, shelter, or facility, or an exempt child welfare agency as defined under § 9-28-402.

(B) "Child living in a foster home" does not include a school-age child living in any unit of the human development centers operated by the department or its successor;

(2) "Child with disabilities" or "student with disabilities" means a person eligible to attend the public schools in this state who is identified as disabled in accordance with rules promulgated by the State Board of Education under the Children With Disabilities Act of 1973, § 6-41-201 et seq.;

(3) "Federal funds" means any federal funds received by the school district that are of a category or nature that would have benefited a child with disabilities or a child living in a foster home, as defined in this subchapter, if the child had attended the school district during the school year or the portion of the school year but who instead attended another school district in this state which makes application for funds to be used in behalf of the education of the child, as provided in this subchapter;

(4) "Local operating funds" means any local operating funds derived from property taxes for the school year, including any surplus funds received from millage pledged for indebtedness purposes but which are not necessary to meet debt service requirements and are transferred to the operating account of the school district for the year;

(5) "Receiving district" means a school district in this state in which a child attends or seeks to attend school other than the school district of residence of the child;

(6) “Sending district” means the school district that is defined by laws or rules as being the school district of residence of the school-age child; and

(7) “State funds” means any state funds received by the school district under the Public School Funding Act of 2003, § 6-20-2301 et seq., the Arkansas Public School Academic Facilities Funding Act, § 6-20-2501 et seq., or other state special education funds.

History. Acts 1981, No. 815, § 1; A.S.A. 1947, § 80-738; Acts 1993, No. 294, § 13; 1995, No. 1296, § 26; 1999, No. 391, § 17; 2009, No. 376, § 39; 2015, No. 1094, § 2; 2019, No. 315, §§ 274, 275.	Amendments. The 2019 amendment substituted “rules” for “regulations” in (2) and (6).
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6-20-503. Rules.

The State Board of Education shall adopt reasonable rules for the administration and enforcement of the provisions of this subchapter and for the carrying out of the purposes and intent of this subchapter that reasonable procedures be established to assure that funds provided for the education of children living in foster homes and of children with disabilities, as defined in this subchapter, in this state shall be equitably and fairly shared by the school districts having the lawful responsibility for the education of such children in this state.

History. Acts 1981, No. 815, § 6; A.S.A. 1947, § 80-743; Acts 1993, No. 294, § 13; 2019, No. 315, § 276.	Amendments. The 2019 amendment substituted “rules” for “regulations” in the section heading and in the section.
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6-20-504. Children living in foster homes.

(a) A school district shall ensure the continuity of educational services for a child living in a foster home so that the child:

- (1) Can remain in his or her school of origin in the state, if it is in the child’s best interest;
- (2) Is moved to a new school in this state in a timely manner when it is necessary, appropriate, and in the best interest of the child under § 9-28-113;
- (3) Can participate in the appropriate educational programs; and
- (4) Has access to the academic resources, services, and extracurricular enrichment activities that are available to all students.

(b)(1) In those instances in which a child living in a foster home attends a public school in a school district in which the foster family home or childcare facility is located but, during the previous school year, attended another school district in this state which, due to the average daily membership of that child during the previous school year, receives state equalization aid and other state aid and federal funds for or in behalf of the education of the child during the current school year, the school district in which the foster child is a student may make application to the other school district receiving state and federal funds for the education of the child to remit the pro rata part of such state,

federal, and local funds available for the education of the child, including special education funds if the foster child is a child with disabilities, to the school district in which the foster child is now a student.

(2) The application shall be in writing and shall state the name of the child, state the fact that the child is in a foster home in the school district, and request payment to that school district of the state, federal, and local funds, including special education funds, if the foster child is a child with disabilities as defined in this subchapter, available for the education of the child for the current school year due to the attendance of the child at the school attended during the previous year.

(3) If the school district to which the request is made fails or refuses to pay the requested funds to the requesting school district within thirty (30) days after receiving the request, the requesting school district may notify the Division of Elementary and Secondary Education of the fact, and the division shall investigate the facts of the request and the refusal to remit payment.

(4) If the division determines that the funds requested were due the requesting school district as provided in this section, the division shall notify the school districts involved of the determination and shall withhold the amount thereof from the next state aid funds available for distribution to the school district that failed or refused to remit the funds as provided in this subchapter and shall pay the amount over to the requesting school district as provided in this section, to be used for the education of the child living in a foster home who is a student in the school district during the current school year.

History. Acts 1981, No. 815, § 4; A.S.A. 1947, § 80-741; Acts 1993, No. 294, § 13; 1995, No. 1296, § 27; 1999, No. 391, § 18; 2015, No. 1094, § 3; 2019, No. 910, § 1608.

Amendments. The 2019 amendment

substituted "Division of Elementary and Secondary Education" for "Department of Education" in (b)(3); and substituted "division" for "department" in (b)(3) and twice in (b)(4).

6-20-505. Children with disabilities — Receiving district's request for funds.

(a) Whenever any child with disabilities attends or seeks to attend a school district other than the school district in which the child's lawful parents, guardian, or other person in loco parentis to the child resides, the receiving district may make application to the sending district requesting that all state, federal, local, or other funds received by the sending district in behalf of the education of the child for the school year or portion of the school year the child attends school in the receiving district be remitted by the sending district to the receiving district.

(b) Before requesting such funds, the requesting district shall have made a determination that:

(1) The child is a child with disabilities as defined in this subchapter and the applicable rules promulgated by the State Board of Education, as provided in this subchapter;

(2) The attendance of the child with disabilities in the school district is in the best interest of the education of the child with disabilities;

(3) The receiving district has accepted or is willing to accept the child with disabilities as a student; and

(4) The request for attendance at the receiving district is not based upon any racial or other reason that might be contrary to the laws and regulations of the United States or of this state or the rules promulgated by the state board under the provisions of this subchapter.

(c) The request for funds from the sending district shall be prepared by the receiving district in writing, setting forth the name of the child, the name and address of the parents, guardian, or other person lawfully responsible for the child, stating the reasons why the child is in attendance or seeks to attend the receiving district instead of the district in which the child should be in attendance, and stating that the receiving district has determined it is in the best interest of the education of the child with disabilities that the child be permitted to attend school in the receiving district.

History. Acts 1981, No. 815, § 3; A.S.A. 1947, § 80-740; Acts 1993, No. 294, § 13; 2019, No. 315, §§ 277, 278.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (b)(1) and (b)(4).

6-20-506. Children with disabilities — Approval or rejection of request.

(a) Within thirty (30) days after receiving a request for payment from the receiving district, the school district board of directors of the district to which the request is made shall review and either:

(1) Approve the request and make payment in behalf of the education of the child to the receiving district in the manner requested or as may be mutually agreed to by the districts; or

(2) If the school district board of directors rejects the request or rejects any of the terms thereof, the action shall be transmitted in writing to the district making the request within five (5) days after the action is taken, setting forth the reasons for rejecting the request or outlining the objections to or modifications proposed therein.

(b) The request for funds filed by the receiving district with the sending district shall seek payments that shall not exceed, unless the school districts shall mutually agree otherwise, the pro rata amount of state funds received per child for each category of state funds received by the school district, as the funds relate to the total number of students in attendance in the school district for which the funds were received.

(c)(1) The amount of local funds to be remitted shall not exceed the pro rata amount per child of local operating funds as defined in this subchapter which are received by the school district from the sending district for property taxes for the school year, as these funds relate to the total number of school-age children in average daily attendance in the school district for the school year.

(2) The amount of federal funds to be remitted shall be the pro rata amount per child of federal funds as defined in this subchapter that are

received for the category of all students eligible to receive federal funds who are within the same classification or category of the child with disabilities for which payment is sought.

History. Acts 1981, No. 815, § 3; A.S.A. 1947, § 80-740; Acts 1993, No. 294, § 13.

6-20-507. Children with disabilities — Hearing before hearing officer.

(a)(1) Upon receipt of the written response, the requesting district in which the child is in attendance may, if the request is rejected, make application to the State Board of Education for a hearing officer to be designated to hold a hearing in regard to the request and to report recommendations to the state board.

(2) The hearing shall be held not less than thirty (30) days nor more than sixty (60) days from the date of the request for the appointment of a hearing officer.

(3) The hearing officer shall, at least ten (10) days before the hearing, notify the requesting district, the district to which the request is made, and all persons having an interest in or knowledge of the circumstances pertinent thereto, and the notice shall state the time and place of the hearing, which shall be held at a place designated by the hearing officer in a county in which one (1) of the school districts is located.

(4) At the hearing, the designated officials of the affected school districts and other interested parties shall appear and furnish testimony as requested by the hearing officer in regard to the request for the payments in behalf of the child.

(5) Upon conclusion of the hearing or within ten (10) days thereafter, the hearing officer shall file a written report, together with the hearing officer's recommendations, with the state board, with a copy thereof to be furnished to the superintendent of schools of the affected school districts.

(b)(1) The hearing officer may recommend approval of the request to the state board if the hearing officer determines that:

(A) The application is made by or in behalf of a child with disabilities as defined in this subchapter;

(B) It is in the best interest of the education of the child to be admitted to or to continue to attend school in the receiving district;

(C) The child's educational needs can be better served in the receiving district; and

(D) The request for attendance at the receiving district is not based upon any racial or other reason that might be contrary to the laws, rules, and regulations of the United States or of this state or the rules promulgated by the state board under the provisions of this subchapter.

(2) Any district aggrieved by the report and recommendations of the hearing officer may appeal to the state board within thirty (30) days after the date of the ruling of the hearing officer.

History. Acts 1981, No. 815, § 3; A.S.A. 1947, § 80-740; Acts 1993, No. 294, § 13; 2019, No. 315, § 279. in (b)(1)(D), inserted the first occurrence of “rules” and deleted “and regulations” following the second occurrence of “rules”.
Amendments. The 2019 amendment,

6-20-508. Children with disabilities — Hearing and ruling by State Board of Education.

(a)(1) If a hearing by the State Board of Education is requested in writing by either or both of the affected school districts or any party to the action, at least ten (10) days before the next regular state board meeting, the state board shall schedule a hearing in regard thereto and shall give each of the affected districts and the affected parties at least five (5) days’ notice of the date, time, and place of the hearing.

(2) On the day and at the time scheduled for the hearing, the state board may hear all interested parties and, upon conclusion thereof, may issue its ruling in regard to the application for payment of funds in behalf of the child with disabilities, and, unless an appeal is filed therefrom with a court of competent jurisdiction within twenty (20) days after the date of such ruling, the ruling shall be final and shall be binding on the school districts and the parties affected.

(b) If no hearing is requested within the time provided in subsection (a) of this section, the state board shall, at its next meeting scheduled after receipt of the hearing officer’s report and recommendations, either approve, reject, or modify the ruling and give notice thereof in writing to the school districts involved within five (5) days, and the ruling shall be binding upon the school districts and parties affected unless an appeal is filed with a court of competent jurisdiction within twenty (20) days of the date of the ruling.

History. Acts 1981, No. 815, § 3; A.S.A. 1947, § 80-740; Acts 1993, No. 294, § 13.

6-20-509. Children with disabilities — Sending district’s refusal to pay.

If the ruling of the State Board of Education provides for payment to be made by the sending district in behalf of the education of the child in the receiving district and if the sending district refuses to make payments in the amount approved by the state board, then, upon certification thereof by the receiving district, the state board shall cause the amount of any state, federal, local, or other funds not remitted to the receiving district to be withheld from the next state equalization aid to the district that has failed to make payments and shall remit the funds to the receiving district in compensation for payments not made by the sending district.

History. Acts 1981, No. 815, § 3; A.S.A. 1947, § 80-740; Acts 1993, No. 294, § 13; 1999, No. 391, § 19.

6-20-510. Confidentiality of records.

All files and records that are required by the laws of this state or under the provisions of applicable federal laws or regulations to be kept confidential and all court orders pertaining to the confidentiality of records or prohibiting or limiting the disclosure thereof pertaining to a child living in a foster home or a child with disabilities under the provisions of this subchapter shall be strictly complied with by the respective school districts and by the Division of Elementary and Secondary Education in all correspondence and transactions pertaining to the administration of the provisions of this subchapter.

History. Acts 1981, No. 815, § 5; A.S.A. 1947, § 80-742; Acts 1993, No. 294, § 13; 2019, No. 910, § 1609.

Amendments. The 2019 amendment

substituted "Division of Elementary and Secondary Education" for "Department of Education".

SUBCHAPTER 6 — LOCAL SCHOOL DISTRICT ISOLATED FUNDING

SECTION.

6-20-601. Qualifications for receiving isolated funding — Definition.

6-20-602. Isolated schools — Definition.

6-20-603. Continued support of isolated school districts.

SECTION.

6-20-604. Additional funding.

6-20-605. [Repealed.]

6-20-606. [Repealed.]

Publisher's Notes. Former subchapter 6, concerning isolated school districts, was repealed by Acts 1995, No. 917, § 15. The subchapter was derived from the following sources:

6-20-601. Acts 1983 (1st Ex. Sess.), No. 42, § 1; 1983 (1st Ex. Sess.), No. 64, § 1; A.S.A. 1947, § 80-484.

6-20-602. Acts 1983 (1st Ex. Sess.), No. 42, §§ 2, 4; 1983 (1st Ex. Sess.), No. 64, §§ 2, 4; A.S.A. 1947, §§ 80-485, 80-487.

6-20-603. Acts 1983 (1st Ex. Sess.), No. 42, § 3; 1983 (1st Ex. Sess.), No. 64, § 3; A.S.A. 1947, § 80-486; Acts 1989, No. 890, § 1; 1995, No. 890, § 1.

6-20-604. Acts 1983 (1st Ex. Sess.), No. 42, § 5; 1983 (1st Ex. Sess.), No. 64, § 5; A.S.A. 1947, § 80-488.

Effective Dates. Acts 1997, No. 1318, § 5; Apr. 10, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that the immediate effectiveness of this act is essential to the operation of the school districts that may qualify to receive isolated funding. Therefore, an emergency is declared to exist and this act being immediately nec-

essary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1549, § 33: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that not to do so would create confusion in the state's public school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 1999."

Acts 2001, No. 1220, § 20: July 1, 2001. Emergency clause provided: "It is found

and determined by the General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that to not do so would create confusion in the state's public school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2003 (2nd Ex. Sess.), No. 60, § 6: Jan. 29, 2004. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002) declared the now existing system of education to be unconstitutional because it is both inequitable and inadequate; and the Arkansas Supreme Court set forth the test for a constitutional system to be one in which the State has an 'absolute duty' to provide an 'equal opportunity to an adequate education'; and the Arkansas Supreme Court instructed the General Assembly to define and provide what is necessary to provide an adequate and equitable education for the children of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2006 (1st Ex. Sess.), No. 21, § 3: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court found that the public school funding system continues to be inadequate and the public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity and to provide adequate funding for public education, the amount of funding provided to school districts with declining enrollment and the amount of special needs isolated funding provided to school districts with isolated schools should be increased; and that this act is

necessary to allow the Department of Education and the Chief Fiscal Officer of the State sufficient time to make all necessary adjustments, calculations, and distributions to provide adequate funding for school districts with declining enrollments and isolated schools that receive special needs isolated funding. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 811, § 4: Apr. 3, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that school districts that enroll students in an isolated school or from a closed isolated school need funding for the transportation of those students to and from the isolated area; that some school districts may lose isolated school funding when an isolated school is closed but continue to have the additional transportation costs; that the loss of the funding may place a hardship on the school district involved; and that this act is immediately necessary because school districts affected by this act and the Department of Education need to resolve the funding issues under this act before the beginning of the 2009-2010 school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2010, No. 293, § 35: July 1, 2010, except § 32, effective Feb. 26, 2010. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for a longer period than one (1) fiscal year; that the effectiveness of this Act on July 1,

2010 is essential to the operation of the agency for which the appropriations in this Act are provided, with the exception that Section 32 in this Act which shall be in full force and effect from and after the date of its passage and approval, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2010 could work irreparable harm upon the proper administration and provision of essential governmental programs, with the exception that Section 32 in this Act which shall be in full force and effect from and after the date of its passage and approval. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2010, with the exception that Section 32 in this Act which shall be in full force and effect from and after the date of its passage and approval."

Acts 2011, No. 1075, § 35: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2011 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2011 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2011."

Acts 2013, No. 1005, § 2: July 1, 2014.

Acts 2017, No. 129, § 2: Feb. 6, 2017. Emergency clause provided: "It is found

and determined by the General Assembly of the State of Arkansas that isolated school districts need additional funding to effectively operate their school districts; that the provision of this additional funding is necessary to avoid an interruption of the delivery of educational services; and that this act is immediately necessary to ensure that the additional funding is provided for the upcoming academic year so that the affected school districts can budget accordingly. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-20-601. Qualifications for receiving isolated funding — Definition.

(a) As used in this section, "isolated school district" means a school district that meets any four (4) of the following five (5) criteria:

(1) There is a distance of twelve (12) miles or more by hard-surfaced highway from the high school of the district to the nearest adjacent high school in an adjoining district;

(2) The density ratio of transported students is less than three (3) students per square mile of area;

(3) The total area of the district is ninety-five square miles (95 sq. mi.) or greater;

(4) Less than fifty percent (50%) of bus route miles is on hard-surfaced roads; and

(5) There are geographic barriers such as lakes, rivers, and mountain ranges that would impede travel to schools that otherwise would be appropriate for consolidation, cooperative programs, and shared services.

(b) An isolated school district shall be eligible to receive isolated funding under this section if:

(1) The school district's budget is prepared by the school district with Division of Elementary and Secondary Education approval;

(2) The school district has a prior-year three-quarter average daily membership of fewer than three hundred fifty (350); and

(3) The school district and each school within the school district meets the minimum standards for accreditation of public schools prescribed by law and rule.

(c) Any school district designated as an isolated school district for the 1996-1997 fiscal year that used geographic barriers as one (1) of the four (4) criteria necessary to receive isolated funding shall be allowed to continue to use geographic barriers as a criterion for future allocations of isolated funding.

(d)(1) State financial aid in the form of isolated funding shall be provided to school districts qualifying under this section.

(2) There are two (2) categories of isolated funding:

(A) Category I isolated funding shall be provided to all school districts that qualify under this section and shall be calculated as:

(i) Three hundred fifty (350) minus the prior-year three-quarter average daily membership; divided by

(ii) Eight hundred fifty (850); multiplied by

(iii) The prior-year three-quarter average daily membership; and multiplied by

(iv) The per-student foundation funding amount under § 6-20-2305(a)(2); and

(B) Category II isolated funding shall be additionally provided to those school districts that qualify under this section and have a prior-year three-quarter average daily membership density ratio of less than one and two-tenths (1.2) students per square mile and shall be calculated at fifty percent (50%) of Category I funding.

(3)(A) An isolated school district whose per-student revenue exceeds the per-student foundation funding amount shall receive isolated funding calculated as follows:

(i) The sum of Category I plus Category II; minus

- (ii) The per-student foundation funding amount; minus
- (iii) The school district's per-student revenue; and multiplied by
- (iv) The prior-year three-quarter average daily membership.

(B) As used in this subdivision (d)(3), "revenue" has the same meaning as defined in § 6-20-2303.

(e)(1) Except as provided under subdivision (e)(2) of this section, a school district that qualifies under § 6-20-603 to receive additional state aid because its prior-year three-quarter average daily membership is less than three hundred fifty (350) is not eligible to receive funding under this section.

(2) A school district may elect to receive funding under this section in lieu of funding under § 6-20-603 if the school district qualifies for funding under § 6-20-603 and for funding under this section.

History. Acts 1997, No. 1318, § 1; 1999, No. 1549, § 21; 2001, No. 1220, § 11; 2011, No. 1131, § 1; 2015, No. 846, § 12; 2019, No. 315, § 280; 2019, No. 910, § 1610.

by No. 315 substituted "rule" for "regulation" in (b)(3).

The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" in (b)(1).

Amendments. The 2019 amendment

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2001 Arkansas General As-

sembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

6-20-602. Isolated schools — Definition.

(a) "Isolated school" means a school within a school district that:

(1) Before administrative consolidation or annexation under this section, the Public Education Reorganization Act, § 6-13-1601 et seq., and § 6-13-1405(a)(5) [repealed] qualified as an isolated school district under § 6-20-601; and

(2) Is subject to administrative consolidation or annexation under this section, the Public Education Reorganization Act, § 6-13-1601 et seq., and § 6-13-1405(a)(5) [repealed].

(b) Any isolated school within a resulting or receiving district shall remain open unless the school district board of directors of the resulting or receiving district adopts a motion to close the isolated school or parts thereof by:

(1) Unanimous vote of the full board of directors; or

(2)(A) A majority vote of the full board of directors, but less than a unanimous vote, and the motion is considered by and approved by a majority vote of members of the State Board of Education.

(B)(i) Any school district board of directors seeking the state board's approval to close isolated schools or parts thereof under subdivision (b)(2)(A) of this section shall no less than thirty (30) days before a regularly scheduled state board meeting, request a hearing on the matter before the state board and file a petition to have the motion reviewed and approved by the state board.

(ii) The petition shall:

(a) Identify the specific isolated schools or part thereof that the local board of directors has moved to close;

(b) State all reasons that the isolated schools or part thereof should be closed;

(c) State how the closure will serve the best interests of the students in the district as a whole;

(d) State if the closure will have any negative impact on desegregation efforts or violate any valid court order from a court of proper jurisdiction; and

(e) Have attached a copy of the final motion approving the closure by the local board of directors.

(C)(i) Upon receiving a petition for approval of a motion to close all or part of an isolated school under subdivision (b)(2)(A) of this section, the state board shall have the authority to review and approve or disapprove the petition.

(ii) The state board shall only approve a motion to close isolated schools or parts thereof under subdivision (b)(2)(A) of this section if the closure is in the best interest of the students in the school district as a whole.

(iii) The state board shall not close a school if the state board finds that the closure will have any negative impact on desegregation efforts or will violate any valid court order from a court of proper jurisdiction.

(D)(i) Except under subdivision (b)(2)(D)(ii) of this section, the state board shall not require the closure of all or part of an isolated school without a motion from the local board of directors as required under subdivision (b)(2)(A) of this section.

(ii) This section shall not be construed to restrict the authority of the Division of Elementary and Secondary Education and the state board otherwise granted by law.

(c) Funding for isolated school districts shall be expended by the resulting or receiving district only on the operation, maintenance, and other expenses of the isolated schools within the resulting or receiving district.

History. Acts 2003 (2nd Ex. Sess.), No. 60, § 5; 2005, No. 1397, § 2; 2011, No. 1131, § 2; 2019, No. 910, § 1611.

A.C.R.C. Notes. Acts 2003 (2nd Ex. Sess.), No. 60, § 1, provided: "Legislative purpose. The General Assembly declares that this act is necessary to ensure the delivery of an equal opportunity for an

adequate education to the people of Arkansas in an efficient and effective manner."

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of Education" in (b)(2)(D)(ii).

CASE NOTES

Closure.

In an appeal by parents under § 25-15-212 of the State Board of Education's decision to close a K-12 school campus

under subsection (a) of this section, the state's duty to provide an adequate education, its obligation to render a definition of excessive transportation time, and its

obligation to adequately fund the transportation needs of school districts were not issues before the court where the state was not a party to the action. Walker v. Ark. State Bd. of Educ., 2010 Ark. 277, 365 S.W.3d 899 (2010).

The Administrative Procedure Act (APA), § 25-15-201 et seq., is applicable to a decision by the State Board of Education regarding a petition for closure, pursuant to this section, because the Board is an administrative agency, whose decisions are subject to appeal as governed by the APA, and the Board acts in a judicial or quasi-judicial capacity, rather than a day-to-day administrative capacity, when it

reviews a petition for closure of an isolated school. Walker v. Ark. State Bd. of Educ., 2010 Ark. 277, 365 S.W.3d 899 (2010).

In an appeal by parents of the State Board of Education's decision to close a K-12 school campus under subsection (a) of this section, the parents' allegation that their children would suffer a negative impact on their academic achievement due to the Board's approval of the school district's petition for closure was sufficient injury to confer standing under § 25-15-212. Walker v. Ark. State Bd. of Educ., 2010 Ark. 277, 365 S.W.3d 899 (2010).

6-20-603. Continued support of isolated school districts.

(a) Upon the effective date of consolidation, annexation, or reorganization, the following school districts that received isolated funding in the 2003-2004 school year shall become isolated school areas for the sole purpose of receiving isolated funding and shall have a per student isolated funding amount as follows:

County	School District	Per Student Isolated
<u>Column A</u>	<u>Column B</u>	<u>Column C</u>
Van Buren	Alread	2,219
Desha	Arkansas City	2,040
Randolph	Biggers-Reyno	763
Miller	Bright Star	916
Marion	Bruno-Pyatt	329
Dallas	Carthage	1,938
Independence	Cord-Charlotte	235
Woodruff	Cotton Plant	733
Crittenden	Crawfordsville	642
Newton	Deer	853
Greene	Delaplaine	215
Desha	Delta Special	952
Nevada	Emmet	307
Sharp	Evening Shade	115
Ashley	Fountain Hill	339
Yell	Fourche Valley	1,603
Arkansas	Gillett	1,000
Lincoln	Gould	765
Lincoln	Grady	560
Polk	Hatfield	42
Monroe	Holly Grove	868

County	School District	Per Student Isolated
<u>Column A</u>	<u>Column B</u>	<u>Funding Amount</u>
		<u>Column C</u>
Arkansas	Humphrey	328
Union	Huttig	668
Cleveland	Kingsland	394
Madison	Kingston	661
Phillips	Lake View	1,054
Searcy	Leslie	628
Lawrence	Lynn	782
Columbia	McNeil	329
Union	Mount Holly	898
Newton	Mount Judea	622
Izard	Mount Pleasant	225
Johnson	Oark	1,576
Montgomery	Oden	671
Saline	Paron	733
Yell	Plainview-Rover	297
Franklin	Pleasant View	679
Randolph	Randolph County	444
Lawrence	River Valley	106
Stone	Rural Special	788
Searcy	Saint Joe	727
Madison	Saint Paul	123
Hempstead	Saratoga	1,407
Van Buren	Scotland	1,841
Dallas	Sparkman	487
Ouachita	Stephens	1
Stone	Stone County	367
Jackson	Swifton	458
Columbia	Taylor	353
Howard	Umpire	2,152
Union	Union	45
Columbia	Walker	819
Newton	Western Grove	375
Cleburne	Wilburn	978
Sharp	Williford	475
Washington	Winslow	494

(b) Each school year, state financial aid in the form of isolated funding shall be provided to school districts containing an isolated school area in an amount equal to the prior-year three-quarter average daily membership of the isolated school area multiplied by the per student isolated funding amount for the isolated school areas as set forth under column "C" of subsection (a) of this section.

(c)(1) Except as provided under subdivision (c)(2) of this section, a school district may not receive isolated funding under this section for an isolated school area if the prior-year three-quarter average daily membership of the isolated school area exceeds three hundred fifty (350).

(2) A school district is entitled to receive the funding under this section for an isolated school area received by the school district in:

(A) A consolidation under § 6-13-1401 et seq. or the Public Education Reorganization Act, § 6-13-1601 et seq.; or

(B) An annexation under § 6-13-1401 et seq. or the Public Education Reorganization Act, § 6-13-1601 et seq.

(d) A school district receiving isolated funding for an isolated school area shall expend the funds solely for the operation, maintenance, and support of the isolated school area.

(e)(1) Except as provided under subdivision (e)(2) of this section, a school district that qualifies under § 6-20-601 to receive additional state aid because its prior-year three-quarter average daily membership is less than three hundred fifty (350) is not eligible to receive funding under this section.

(2) A school district may elect to receive funding under this section in lieu of funding under § 6-20-601 if the school district qualifies for funding under § 6-20-601 and for funding under this section.

(f) For the purposes of this section, school districts with isolated school areas shall account for the average daily membership of all schools located in the isolated school areas as required by the Division of Elementary and Secondary Education and shall submit reports as required by the division.

(g) The division shall distribute isolated funding under this section in two (2) payments per school year.

(h) This section does not determine a school district's qualification as an isolated school district under § 6-20-601 as required to prohibit the closing of an isolated school in § 6-20-602.

(i)(1)(A) If all of an isolated school area in a school district is closed, the school district shall receive funding based on the prior-year three-quarter average daily membership of the isolated school area.

(B) If part of an isolated school area in a school district is closed, the school district funding is based on the prior-year three-quarter average daily membership of the part of the isolated school area that remains open.

(C) Funding received by a school district under this subsection is restricted for use at the closed isolated school area or for transporting students of the closed isolated school area to another school in the district.

(2) If a closed isolated school area is subsequently used by the school district for an alternative learning environment program or other regular classroom teaching, the school district using the now closed isolated school area may submit prior-year three-quarter average daily membership to the state to request funding under this section.

(j) The State Board of Education may promulgate rules as necessary for the proper implementation of this section.

History. Acts 2003 (2nd Ex. Sess.), No. 65, § 1; 2007, No. 1573, §§ 29, 30; 2009, No. 811, § 1; 2011, No. 996, § 1; 2011, No. 1131, § 3; 2019, No. 910, § 1612.

Amendments. The 2019 amendment

substituted “Division of Elementary and Secondary Education” for “Department of Education” in (f); and substituted “division” for “department” in (f) and (g).

CASE NOTES

Cited: Deer/Mt. Judea Sch. Dist. v. Kimbrell, 2013 Ark. 393, 430 S.W.3d 29 (2013).

6-20-604. Additional funding.

(a) The General Assembly finds that school districts that contain isolated schools need additional funding to provide an adequate education for students attending schools in those school districts.

(b) A school district shall receive special needs funding under subsection (c), subsection (d), or subsection (e) of this section if the school district meets the requirements of subsection (c), subsection (d), or subsection (e), respectively, of this section and if:

(1) The school district was consolidated or annexed or received an annexed school under the Public Education Reorganization Act, § 6-13-1601 et seq.;

(2) The local school district board of directors by majority vote determines that the isolated school is so isolated that to combine its operation to one (1) school district campus would be impractical or unwise; and

(3) The isolated school or school district:

(A) Meets the requirements of § 6-20-601 and filed an affidavit of isolated school status with the State Board of Education during the consolidation or annexation process, and the facts of the affidavit are verified by the state board or its designee;

(B) Meets the requirements of § 6-20-601 and filed an affidavit of isolated school status with the state board after the consolidation or annexation process or with regard to the 2006-2007 school year no later than June 1, 2006, and the facts of the affidavit are verified by the state board or its designee; or

(C) Meets the requirements of § 6-20-601 but for the prior-year three-quarter average daily membership requirement of fewer than three hundred fifty (350) students and filed an affidavit of isolated school status with the state board after the consolidation or annexation process and the facts of the affidavit are verified by the state board or its designee.

(c) A school district meeting the requirements of subsection (b) of this section shall receive an additional amount equal to twenty percent (20%) of the per-student foundation funding amount under § 6-20-

2305(a)(2) multiplied by the prior-year three-quarter average daily membership for the school district to be used for the operation of the isolated school areas if the school district has:

(1) School facilities serving students in any grade in kindergarten through grade twelve (K-12), in one (1) or more isolated schools meeting the requirements of subsection (b) of this section;

(2) A prior-year three-quarter average daily membership for the school district of five hundred (500) or less; and

(3) A density ratio of one and five-tenths (1.5) students or less per square mile.

(d)(1) A school district meeting the requirements of subsection (b) of this section shall receive an additional amount equal to fifteen percent (15%) of the per-student foundation funding amount under § 6-20-2305(a)(2) multiplied by the prior-year three-quarter average daily membership for the school district to be used for the operation of the isolated school areas if the school district has:

(A) School facilities open for kindergarten through grade twelve (K-12) in two (2) or more isolated schools meeting the requirements of subsection (b) of this section and meeting the requirements of § 6-20-601 and if both isolated schools were annexed under the Public Education Reorganization Act, § 6-13-1601 et seq.;

(B) A prior-year three-quarter average daily membership for the school district of five hundred one (501) to one thousand (1,000); and

(C) A density ratio of one and five-tenths (1.5) students or less per square mile.

(2) A school district meeting the requirements of subsection (b) of this section with a three-quarter average daily membership of one thousand one (1,001) or greater is entitled to receive the funding under this section for an isolated school area received by the school district in:

(A) A consolidation under § 6-13-1401 et seq. or the Public Education Reorganization Act, § 6-13-1601 et seq.; or

(B) An annexation under § 6-13-1401 et seq. or the Public Education Reorganization Act, § 6-13-1601 et seq.

(e)(1) Except as provided in subdivision (e)(2) of this section, a school district meeting the requirements of subsection (b) of this section shall receive an additional amount equal to ten percent (10%) of the per-student foundation funding amount under § 6-20-2305(a)(2) multiplied by the prior-year three-quarter average daily membership of the isolated school area to be used for the operation of the isolated school area if the school district has school facilities open for kindergarten through grade twelve (K-12) in one (1) or more isolated school areas meeting the requirements of subsection (b) of this section.

(2)(A) A school district shall receive an additional amount equal to ten percent (10%) of the per-student foundation funding amount under § 6-20-2305(a)(2) multiplied by the prior-year three-quarter average daily membership of the isolated school area to be used for the operation of the isolated school area if:

(i) The school district has school facilities serving students in any grade in kindergarten through grade twelve (K-12) in one (1) or more

isolated school areas meeting the requirements of subsection (b) of this section; and

(ii) The school district closed an isolated facility serving students in grades seven through twelve (7-12).

(B) A school district that is eligible to receive funding under this subdivision (e)(2) must also meet the requirements of subsection (b) of this section.

(f) A school district shall receive an additional amount equal to five percent (5%) of the per-student foundation funding amount under § 6-20-2305(a)(2) multiplied by the prior-year three-quarter average daily membership of the school district if the school district has a:

(1) Prior-year three-quarter average daily membership of less than five hundred (500) students; and

(2) Density ratio of two (2) students or less per square mile.

(g) A school district eligible for special needs funding under this section shall continue to be eligible to receive isolated school funding provided under § 6-20-603 but shall only receive funding under one (1) of the categories established under subsections (c)-(f) of this section.

(h)(1) This section is contingent on the appropriation and availability of funding for its purposes.

(2)(A) Undistributed funds under this section and §§ 6-20-601 and 6-20-603 shall be distributed on an equal basis per school district to each school district that is eligible to receive funds under subsection (c), subsection (d), or subsection (e) of this section.

(B) Funds distributed under subdivision (h)(2)(A) of this section shall be used by the school district only for transportation costs of the isolated school areas in the school district.

(3) Funding provided under this section is in addition to and in excess of the amount of funds necessary to provide an adequate education as required by the Arkansas Constitution and cannot be relied upon beyond the expiration date of an appropriation made for the purposes of this section.

History. Acts 2005, No. 1452, § 1; 2006 (1st Ex. Sess.), No. 21, § 2; 2007, No. 1052, §§ 1, 2; 2007, No. 1573, §§ 31, 32; 2009, No. 811, §§ 2, 3; 2010, No. 293, § 32; 2011, No. 996, § 2; 2011, No. 1075, § 31; 2011, No. 1131, § 4; 2012, No. 269, § 31; 2013, No. 1073, § 33; 2015, No. 27, § 1; 2015, No. 846, §§ 13-15; 2017, No. 129, § 1.

Amendments. The 2017 amendment substituted “one and five-tenths (1.5)” for “one and three-tenths (1.3)” in (c)(3).

CASE NOTES

Cited: Deer/Mt. Judea Sch. Dist. v. Kimbrell, 2013 Ark. 393, 430 S.W.3d 29 (2013).

6-20-605. [Repealed.]

Publisher's Notes. This section, concerning a study with the aim of reducing excessive travel times for students, was

repealed by Acts 2007, No. 1573, § 60. The section was derived from Acts 2005, No. 1452, § 2.

6-20-606. [Repealed.]

Publisher's Notes. This section, concerning the phasing out of funding for isolated schools, was repealed by Acts

2015, No. 846, § 16. The section was derived from Acts 2013, No. 1005, § 1.

SUBCHAPTER 7 — SCHOOL LUNCH PROGRAM

SECTION.

- 6-20-701. Definitions.
- 6-20-702. Administration generally.
- 6-20-703. Disposition of federal funds.
- 6-20-704. Regulation and supervision of accounts, records, and operations.
- 6-20-705. Studies and appraisals — Reports.

SECTION.

- 6-20-706. Acceptance of gifts.
- 6-20-707. Use of funds by school districts.
- 6-20-708. Appropriation of state funds authorized.
- 6-20-709. School lunch menus.

Effective Dates. Acts 1947, No. 157, § 8: Mar. 3, 1947. Emergency clause provided: "It is ascertained and determined that the proper nutrition of school children is necessary for the preservation of public peace, health, and safety, an emergency is declared to exist, and this act shall be in effect and full force upon and after its passage and approval."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations

of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-20-701. Definitions.

As used in this subchapter:

- (1) "School" means public tax-supported elementary or high school;
- (2) "School district" means:

(A) A geographic area with an elected board of directors that qualifies as a taxing unit for purposes of school district taxes under § 26-80-101 et seq., which board of directors conducts the daily affairs of public schools pursuant to the supervisory authority vested in it by the General Assembly and this title; and

(B) An open-enrollment public charter school; and

(3) “School lunch program” means a program under which lunches are served by any school in this state on a nonprofit basis to children in attendance, including any such program under which a school receives assistance out of funds appropriated by the United States Congress.

History. Acts 1947, No. 157, § 1; A.S.A. 1947, § 80-125; Acts 2013, No. 1073, § 34.

6-20-702. Administration generally.

(a) The State Board of Education may enter into such agreements with any agency of the United States Government, with any school district, or with any other agency or person and may prescribe such rules, employ such personnel, and take such other action as it may deem necessary to provide for the establishment, maintenance, operation, and expansion of any school lunch program and to direct the disbursement of federal and state funds, in accordance with any applicable provisions of federal or state law.

(b) The state board may give technical advice and assistance to any school district in connection with the establishment and operation of any school lunch program and may assist in training personnel engaged in the operation of such program.

History. Acts 1947, No. 157, § 3; A.S.A. 1947, § 80-127; Acts 2019, No. 315, § 281. **Amendments.** The 2019 amendment substituted “rules” for “regulations” in (a).

6-20-703. Disposition of federal funds.

(a) The State Board of Education is authorized to accept and direct the disbursement of funds appropriated by any act of the United States Congress and apportioned to the state for use in connection with school lunch programs.

(b) The state board shall deposit all such funds received from the United States Government into a special account and shall make disbursements directly to school districts upon receipt of proper claims prescribed by the state board.

History. Acts 1947, No. 157, § 2; A.S.A. 1947, § 80-126.

6-20-704. Regulation and supervision of accounts, records, and operations.

(a) The State Board of Education shall prescribe rules for the keeping of accounts and records and the making of reports by or under the supervision of school districts.

(b) These accounts and records shall at all times be available for inspection and audit by authorized officials and shall be preserved for such period of time, not in excess of five (5) years, as the state board may lawfully prescribe.

(c) The state board shall conduct or cause to be conducted such audits, inspections, and administrative reviews of accounts, records, and operations with respect to school lunch programs as may be necessary to determine whether its agreements with the school district regulations made pursuant to this subchapter are being complied with and to ensure that school lunch programs are effectively administered.

History. Acts 1947, No. 157, § 5; A.S.A. 1947, § 80-129; Acts 2019, No. 315, § 282.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (a).

6-20-705. Studies and appraisals — Reports.

The State Board of Education is authorized, to the extent that funds are available for that purpose, and in cooperation with other appropriate agencies and organizations, to:

- (1) Conduct studies of methods for improving and expanding school lunch programs and promoting nutritional education in the schools;
- (2) Conduct appraisals of the nutritive benefits of school lunch programs; and
- (3) Report its findings and recommendations to the Governor and to the General Assembly.

History. Acts 1947, No. 157, § 6; A.S.A. 1947, § 80-130.

6-20-706. Acceptance of gifts.

The State Board of Education and any school district may accept any gift for use in connection with any school lunch program.

History. Acts 1947, No. 157, § 3; A.S.A. 1947, § 80-127.

6-20-707. Use of funds by school districts.

Pursuant to any power of school districts to operate or provide for the operation of school lunch programs in schools under their jurisdiction, school districts may use the funds disbursed to them under the provisions of this subchapter, gifts, and other funds received from sale of school lunches for establishment, expansion, and improvement of school lunch programs.

History. Acts 1947, No. 157, § 4; A.S.A. 1947, § 80-128.

6-20-708. Appropriation of state funds authorized.

There is authorized to be appropriated from time to time out of money in the State Treasury not otherwise appropriated such sums as may be necessary to enable the State Board of Education to provide for the establishment, maintenance, operation, and expansion of school lunch

programs, including, but not limited to, the payment of administrative expenses and the matching or supplementing of federal funds.

History. Acts 1947, No. 157, § 7; A.S.A. 1947, § 80-131.

6-20-709. School lunch menus.

(a) In addition to following the dietary guidelines of the National School Lunch Program, each school district shall provide to the school district's school nutrition and physical activity advisory committee:

(1) Information on the requirements and standards of the National School Lunch Program; and

(2) Menus for the National School Lunch Program and other food sold in the school cafeteria on a quarterly basis.

(b) The school nutrition and physical activity advisory committee shall provide recommendations to the school district concerning menus and other foods sold in the school cafeteria.

(c) The Child Health Advisory Committee, the Child Nutrition Unit, and the Department of Health shall provide technical assistance as necessary.

History. Acts 2005, No. 2285, § 1; 2019, No. 910, § 1613.

Amendments. The 2019 amendment substituted "Division of Elementary and

Secondary Education" for "Department of Education" following "Child Nutrition Unit of the" in (c).

SUBCHAPTER 8 — REVOLVING LOAN PROGRAM — GENERAL PROVISIONS

SECTION.

- 6-20-801. Continuance of Revolving Loan Fund.
- 6-20-802. Purposes of loan.
- 6-20-803. Loans to local school districts.
- 6-20-804. Application for loan.
- 6-20-805. Approval, partial approval, or disapproval of loans.
- 6-20-806. Revolving loan bonds and certificates of indebtedness.
- 6-20-807. Pledge to secure payment of obligation.
- 6-20-808. Pledge of ad valorem tax levy — Duty of county officers.
- 6-20-809. Loans secured by district sources other than ad valorem tax levy.
- 6-20-810. Certificate of approval — Instrument negotiable.

SECTION.

- 6-20-811. Delivery of obligations — Drawing and receipt of warrant — Use of funds.
- 6-20-812. Interest and payments of principal deposited into State Treasury.
- 6-20-813. Principal and interest charge against revenues of school district.
- 6-20-814. Default or threatened default.
- 6-20-815. Refunding obligations.
- 6-20-816. Fees prohibited.
- 6-20-817. Prior loans validated.
- 6-20-818. Loans to education service co-operatives.

Effective Dates. Acts 1953, No. 384, § 19[20]: July 1, 1953.

Acts 1957, No. 80, § 3: Feb. 25, 1957.
Emergency clause provided: "It is hereby

determined by the General Assembly that many counties of the State are making substantial progress in equalizing assessments; that a number of counties have not

been able to employ appraisal firms to assist in reappraising and equalizing property due to the fact that a number of school districts would be placed in financial jeopardy if they were required to pay their share of the cost of such reappraisal out of their current tax income; and, that there is an immediate need for the passage of this Act in order that school districts might borrow funds to replace tax money lost to said districts as their pro rata share of the cost of reappraisal of property within the county. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1959, No. 64, § 2: July 1, 1959.

Acts 1967, No. 480, § 5: Apr. 4, 1967. Emergency clause provided: "It is hereby declared that the Revolving Loan Program of the State of Arkansas is essential to the welfare of many School Districts in this State; that the changes made by this act in the Revolving Loan Program are necessary for the effective operation of the Program; and that these changes must go into effect immediately so that the program may continue uninterrupted. It is, therefore, declared that an emergency exists and this act being necessary for the immediate preservation of the public peace, health and safety shall take effect and be in force from and after its passage and approval."

Acts 1973, No. 59, § 17: Feb. 6, 1973. Emergency clause provided: "It has been found and it is hereby declared by the General Assembly that the existing authority for the financing of the revolving loan program administered by the Board is inadequate and costly in that additional funds could be obtained at less cost if the Board were enabled to borrow from customary sources on a competitive bid basis. Therefore an emergency is declared to exist and this Act, being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect upon its passage and approval."

Acts 1979, No. 541, § 9: Mar. 23, 1979. Emergency clause provided: "It has been found and it is hereby declared that the Revolving Loan Program of the State Board of Education can no longer be fi-

nanced, due to the legal inability of participating school districts to pay interest at rates which would permit the Board to issue its bonds at interest rates acceptable to the market and that school districts are presently in need of the funds customarily provided under the Revolving Loan Program. Therefore, an emergency is declared to exist and this Act, being necessary for the preservation of the public peace, health and safety, shall be in force upon its passage and approval."

Acts 1983, No. 880, § 6: Mar. 28, 1983. Emergency clause provided: "It is hereby found and determined that school districts and the State Board of Education are presently unable to finance essential facilities for public education within the present maximum interest rate limitations on debt obligations issued by the Board and school districts. An emergency is declared to exist and this Act, being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 1185, § 6: Apr. 10, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that there is an immediate need for funds for elementary and secondary education in Arkansas and for funds which may be available for loans to Arkansas school districts pursuant to the revolving loan program operated by the State Board of Education and that, accordingly, the power of the Board to sell revolving loan school district obligations should be clarified and confirmed. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from an after its passage and approval."

Acts 1992 (1st Ex. Sess.), No. 53, § 6: Mar. 17, 1992. Emergency clause provided: "It is hereby found and determined by the General Assembly that bankruptcies and receiverships result in delinquent property taxes which results in substantial financial distress to school districts; this act provides a mechanism for the State Department of Education to loan money to school districts in such instances and should be given effect immediately in order to protect the solvency of those school districts. Therefore, an emergency

is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 501, § 5: Mar. 15, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy Ninth General Assembly that the Revolving Loan Program of the State Board of Education is essential to the continued and proper financing of Arkansas school districts and that immediate implementation of the provisions of this act are necessary for the efficient operation of the Revolving Loan Program. Therefore, an emergency is declared to exist and this act, being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1993, No. 977, § 5: Apr. 9, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly that the Revolving Loan Program of the State Board of Education is essential to the continued and proper financing of Arkansas school districts and that the immediate implementation of the provisions of this act are necessary for the efficient operation of the Revolving Loan Program. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1994 (2nd Ex. Sess.), No. 49, § 5: Aug. 25, 1994. Emergency clause provided: "It is hereby found and determined by the Seventy Ninth General Assembly, meeting in Second Extraordinary Session, that expanding the purposes for which school districts may borrow money from the Revolving Loan Program of the State Board of Education is essential to the financial stability of school districts when local taxes are tied up in court or when insurance claims are being litigated or arbitrated and that immediate implementation of the provisions of this Act are necessary for the efficient operation of the Revolving Loan Program. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 913, § 6: Apr. 5, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that present laws with respect to revolving loans to school districts contain restrictions which unduly inhibit current operations of the Revolving Loan Program under the exclusive jurisdiction of the State Board of Education and that the immediate implementation of the provisions of this act are necessary for a more efficient operation of the program. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 2001, No. 1220, § 20: July 1, 2001. Emergency clause provided: "It is found and determined by the General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that to not do so would create confusion in the state's public school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001."

Acts 2003, No. 210, § 4: Feb. 21, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that revolving loan bonds, revolving loan certificates of indebtedness, and negotiable bonds are utilized for the financing of school districts in the state; that legislation is needed to amend the definition of maximum lawful rate in order to clarify that revolving loan bonds, revolving loan certificates of indebtedness, and negotiable bonds are utilized for the financing of school districts in the state; that legislation is needed to amend the definition of maximum lawful rate in order to clarify the maximum lawful rate of interest allowed on such indebtedness prior to the next annual school elections or special election called by the school district to comply with recent court orders, and that this act is immediately necessary because school districts need to restructure their debt in order to comply with recent court orders. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall be-

come effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Identical Acts 2006 (1st Ex. Sess.), Nos. 22 and 23, § 6: Apr. 11, 2006. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court found that the public school funding system continues to be inadequate and the public schools are operating under a constitutional infirmity that must be corrected immediately; that statutory limitations on bonded indebtedness for school districts may impair some school districts’ ability to raise local resources necessary for the repair, improvement, and replacement of academic facilities; that legislative correction is immediately necessary in order to allow school districts, particularly school districts experiencing rapid growth, to use all available revenue streams in providing an adequate opportunity for an adequate education to every public school student in the state. Therefore, an emergency is declared to exist and this act being neces-

sary for the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-20-801. Continuance of Revolving Loan Fund.

(a) The fund in the State Treasury known as the “Revolving Loan Fund” shall continue, under the exclusive jurisdiction of the State Board of Education, as the lending fund for the Public School Fund.

(b) All unencumbered assets, both cash and securities, in the Revolving Loan Fund shall remain inviolate and intact as though in the Public School Fund and shall be held by the Treasurer of State, as custodian, subject, however, to its administration by the state board for the purposes provided in this subchapter.

(c) All earnings received on the investment of assets held in the Revolving Loan Fund shall be used for the following purposes, and in the following order of priority:

(1) To pay expenses of the operation of the revolving loan program administered by the state board and the Division of Elementary and Secondary Education; and

(2) To fund revolving loans made pursuant to § 6-20-802 or any like or successor law.

History. Acts 1953, No. 384, § 1; A.S.A. substituted “Division of Elementary and Secondary Education” for “Department of Education” in (c)(1).
1947, § 80-941; Acts 1993, No. 501, § 1;
2019, No. 910, § 1614.

Amendments. The 2019 amendment

6-20-802. Purposes of loan.

Subject to the conditions and limitations contained in this subchapter, any school district may borrow and the State Board of Education may lend moneys in the Revolving Loan Fund for any of the following purposes:

(1) The funding of its legally issued and outstanding postdated warrants;

(2) The purchase of new or used school buses or the refurbishing of school buses;

(3) The payment of premiums on insurance policies covering its school buildings, facilities, and equipment in instances in which the insurance coverage extends three (3) years or longer;

(4) The replacement of or payment of the school district’s pro rata part of the expense of employing professional appraisers as authorized by § 26-26-601 et seq. [repealed] or other laws providing for the appraisal or reappraisal and assessment of property for ad valorem tax purposes;

(5) The making of major repairs and the construction of additions to existing school buildings and facilities;

(6) The purchase of surplus buildings and equipment;

(7) The purchase of sites for and the cost of construction thereon of school buildings and facilities and the purchase of equipment for the buildings;

(8) The purchase of its legally issued and outstanding commercial bonds at a discount provided that a substantial savings in gross interest charges can be thus effected;

(9) The refunding of all or any part of its legally issued and outstanding debt, both funded and unfunded;

(10) The purchase of equipment;

(11) The payment on loans secured for settlement resulting from litigation against a school district;

(12) The purchase of energy conservation measures as defined in § 6-20-401;

(13) The maintenance and operation of the school district in an amount equal to delinquent property taxes resulting from bankruptcies or receiverships of taxpayers; and

(14)(A) Loans to school districts in an amount equal to insured facility loss or damage when the insurance claim is being litigated or arbitrated.

(B) For purposes of this subdivision (14), the loans become payable and due when the final settlement is made, and the loan limits prescribed by § 6-20-803 shall not apply.

History. Acts 1953, No. 384, § 2; 1957, 1992 (1st Ex. Sess.), No. 53, § 1; 1994 No. 80, § 1; 1965, No. 27, § 1; A.S.A. (2nd Ex. Sess.), No. 49, § 1; 1997, No. 1947, § 80-942; Acts 1989, No. 403, § 1; 1265, § 2; 2001, No. 1220, § 12.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of assembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

CASE NOTES

Cited: Little Rock Sch. Dist. v. Pulaski County Special Sch. Dist. No. 1, 597 F. Supp. 1220 (E.D. Ark. 1984).

6-20-803. Loans to local school districts.

(a) The maximum amount of money a local school district may borrow from the Revolving Loan Fund shall be five hundred thousand dollars (\$500,000).

(b) Notwithstanding subsection (a) of this section, a school district participating in the Compressed Natural Gas School Bus Pilot Program under § 6-19-128 [repealed] additionally may borrow up to one million five hundred thousand dollars (\$1,500,000) for the purchase of new compressed natural gas school buses.

History. Acts 1987, No. 552, § 1; 1995, No. 913, § 1; 2006 (1st Ex. Sess.), No. 22, § 4; 2006 (1st Ex. Sess.), No. 23, § 4; 2013, No. 1195, § 2.

concerning the maximum amount of loans, is deemed to be superseded by this section. The former section was derived from Acts 1953, No. 384, § 3; A.S.A. 1947, § 80-943.

A.C.R.C. Notes. Former § 6-20-803, § 80-943.

6-20-804. Application for loan.

(a)(1) The board of directors of any school district desiring to borrow money from the Revolving Loan Fund, acting through its chair or president, and secretary, shall file a formal application with the State Board of Education.

(2) The application shall contain the following information:

(A) The name, number, and location of the school district;

(B) The date and place of the meeting of the board of directors at which action was taken authorizing its chair or president, and secretary to make formal application for a loan;

(C) The purpose for which the proceeds of the loan would be used;

(D) The amount of the assessed valuation of both real and personal property within its boundaries for the then-current year;

(E) The estimated amount that it proposes to borrow, together with supporting evidence upon which the estimate is based;

(F) A detailed description of its valid outstanding debt, both funded and unfunded, itemizing the respective amounts thereof, and a statement setting forth the security, if any, pledged to the payment of each classification of the debt;

(G) The method that it proposes to adopt to secure, and to amortize, any proposed borrowing from the fund; and

(H) Such additional information as may be required by the state board.

(b) Each application shall be executed in duplicate, the original to be filed with the state board and one (1) copy to be retained in the files of the school district.

History. Acts 1953, No. 384, § 4; A.S.A. 1947, § 80-944; Acts 2005, No. 2121, § 13.

6-20-805. Approval, partial approval, or disapproval of loans.

(a)(1) Within a reasonable time after its receipt, each application shall be examined by the Commissioner of Elementary and Secondary Education as to accuracy with respect to answers contained therein relating to fiscal matters.

(2) A statement of the commissioner's findings, together with the commissioner's recommendations, shall be submitted with the application to the State Board of Education for consideration.

(b)(1) After considering the merits of each application, the state board may, in its discretion, approve the application for the full amount of the proposed loan, approve the application for a loan of a lesser amount than the amount requested, or disapprove the application.

(2) The applicant shall forthwith be notified by the commissioner of the action taken by the state board.

(c) The state board may, by resolution, delegate to the commissioner any of the powers or duties vested in or imposed upon it by this subchapter with respect to the approval of loans made from the Revolving Loan Fund in instances in which such loans are to be evidenced by revolving loan certificates of indebtedness.

(d) Such delegated powers and duties may be exercised by the commissioner in the name of the state board.

History. Acts 1953, No. 384, § 5; A.S.A. 1947, § 80-945; Acts 2021, No. 544, § 37. substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (a)(1).

Amendments. The 2021 amendment

6-20-806. Revolving loan bonds and certificates of indebtedness.

(a)(1) Each such loan that is to be amortized or paid in full, both principal and interest, within or at the end of ten (10) years from the date of its approval by the State Board of Education shall be evidenced by the school district's obligations that shall be designated and known as "revolving loan certificates of indebtedness".

(2) Each such loan whose date of final principal and interest maturity extends beyond the ten-year period shall be evidenced by the school district's obligations, which shall be designated and known as "revolving loan bonds".

(b)(1) Revolving loan bonds and revolving loan certificates of indebtedness shall be in such form and denomination, shall have such dates and maturities, shall bear interest payable at such times, and at such rates, shall be payable at such place or places, shall contain such provisions as to registration of ownership, if in its opinion registration is desirable, and shall contain such provisions as to redemption before maturity at such prices, including such premiums, all as the state board shall determine.

(2) The bonds and certificates shall have all the qualities of negotiable instruments under the laws of the State of Arkansas, subject to the provisions as to registration of ownership set forth in subdivision (b)(1) of this section.

(c)(1) The state board shall continually endeavor to keep the interest rates on revolving loan bonds and revolving loan certificates of indebtedness as low as possible, consistent with the continued and assured funding of the revolving loan program.

(2) To this end, the state board will obtain and consider relevant information regarding economic conditions and interest rates on comparable obligations and shall fix and alter interest rates of revolving loan bonds and revolving loan certificates of indebtedness as feasible and appropriate.

History. Acts 1953, No. 384, § 6; 1967, § 80-946; Acts 1995, No. 913, § 2; 2001, No. 480, § 1; 1979, No. 541, § 1; 1981, No. No. 1220, § 13; 2003, No. 210, § 1; 2015, 549, § 1; 1983, No. 880, § 2; A.S.A. 1947, No. 846, § 17.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of assembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

6-20-807. Pledge to secure payment of obligation.

(a) For the purpose of fully securing revolving loan bonds or revolving loan certificates of indebtedness, the issuing school district may pledge any one (1) or more of the following, as shall be determined by the State Board of Education, as a condition precedent to the making of any such loans:

(1) The proceeds of taxes to be collected from a continuing ad valorem tax levy on all of the taxable real and personal property within the bounds of the school district, such levy having been proposed by the board of directors of the issuing school district and approved by a majority of the qualified electors of the school district voting on the proposition at an election called and held according to law;

(2) The per capita apportionment, or any part thereof, allocable to the school district from the Public School Fund;

(3) Any other moneys allocable to the school district by the State of Arkansas, the use of which is not otherwise specifically provided by law;

(4) Any surplus revenues arising each year from taxes voted to meet annual debt service requirements of any other issues of the school district's obligations; and

(5) Any other revenues or resources of the school district that may be legally pledged to secure obligations of the school district.

(b) In the event the proceeds of any such loan are to be used for the retirement of any of its legally issued and outstanding commercial bonds, the school district may, in lieu of the pledge requirements provided in subsection (a) of this section and subject to the approval of the state board, secure the payment of any such loan by the deposit with the state board of all commercial bonds so purchased.

(c) In all instances, the pledge to secure the payment of the revolving loan bonds or revolving loan certificates of indebtedness, both principal and interest, shall be contained in a resolution adopted by the board of directors of the school district.

History. Acts 1953, No. 384, § 7; 1973, No. 59, § 6; A.S.A. 1947, § 80-947.

6-20-808. Pledge of ad valorem tax levy — Duty of county officers.

(a)(1) In each instance in which a loan from the Revolving Loan Fund is to be secured in whole or in part from the proceeds of taxes to be collected from a continuing ad valorem tax levy to be approved by a majority of the qualified electors of the district voting on the proposition at an election, the form of ballot, and all such other things and matters required to be done and passed upon, shall be the same in all respects as though commercial bonds were to be issued.

(2) Each such ballot shall reflect:

(A) The total amount of funds which the school district proposes to borrow, and the purposes for which the proposed loan is to be used; and

(B) The number of mills on each dollar of the assessed valuation of taxable property within the bounds of the school district to be levied annually to meet the debt service requirements of the obligations.

(b)(1) Whenever at any such election the electors approve the annual levy of taxes for the purposes under subdivision (a)(2) of this section, it shall be the duty of the clerk of the county court of the county in which the school district is located to present the proposition each year to the levying court of the county on the first day when it is in session for the levy of taxes, and it shall be the duty of the levying court to levy the rate as so presented by the county clerk.

(2) In the event that the county clerk shall fail to present the proposition to the levying court or in the event that the levying court shall fail to take affirmative action in respect to the making of such levy, it shall, nevertheless, be the duty of the official required by law to make the extension of taxes on the tax rolls to extend the taxes at the rate so approved by the electors on all taxable real and personal property within the bounds of the school district.

(c) All taxes collected under the levy shall be, by the county treasurer or school district treasurer, set aside and apart from all other funds of the school district for use only for the purpose of meeting the annual debt service requirements of the obligations secured by the pledge of such ad valorem tax levy, provided that any surplus accruing annually from the collection of taxes under any such levy may be, by resolution adopted by the board of directors of the school district, transferred by the county treasurer or school district treasurer to the school district's general operating fund.

History. Acts 1953, No. 384, § 8; A.S.A. 1947, § 80-948; Acts 1995, No. 233, § 15.

6-20-809. Loans secured by district sources other than ad valorem tax levy.

(a) In each instance in which a loan from the Revolving Loan Fund is to be secured in whole by funds derived from sources other than from a specifically voted continuing ad valorem tax levy on the taxable real and personal property within the bounds of the school district, the board of directors of the school district, acting through its chair or president, and secretary, shall cause to be published by one (1) insertion in a newspaper having a general circulation within the school district a notice of its intention to borrow funds, setting forth therein the amount of funds that it proposes to borrow, the purposes for which the funds are to be used, and the particular funds of the school district that it proposes to pledge to secure the payment of the loan.

(b) In no such instance may a loan be made from the Revolving Loan Fund without the approval of a majority of the qualified electors voting on the proposition at a legally held school election whenever, on or before the fourteenth day next following the publication of any such notice as provided in subsection (a) of this section, petitions objecting to such proposed loan containing the signatures of not less than twenty percent (20%) of the qualified electors residing within the school district shall be filed with, and certified as sufficient by, the clerk of the county court of the county in which the school district is located.

(c) In the event, however, that no such petitions shall be filed within the fourteen-day period, or in the event any such petitions that may be filed within the period shall fail to contain the requisite number of valid signatures as certified by the county court clerk, the school district board of directors shall proceed with the making of the loan.

History. Acts 1953, No. 384, § 9; A.S.A. 1947, § 80-949.

6-20-810. Certificate of approval — Instrument negotiable.

(a) Whenever all of the conditions required by this law have been met, the Commissioner of Elementary and Secondary Education shall execute a certificate on each revolving loan bond or revolving loan

certificate of indebtedness to the effect that the bond or certificate, and the issue of which it is a part, has been approved by the State Board of Education.

(b) Thereafter, each such revolving loan bond or revolving loan certificate of indebtedness shall be a negotiable instrument.

History. Acts 1953, No. 384, § 10; 1959, No. 64, § 1; A.S.A. 1947, § 80-950; Acts 2021, No. 544, § 38.

Amendments. The 2021 amendment substituted “Commissioner of Elementary

and Secondary Education” for “Commissioner of Education” in (a).

Meaning of “this law.” Acts 1953, No. 384, codified as §§ 6-20-801, 6-20-802, 6-20-804 — 6-20-817, and 19-11-602.

6-20-811. Delivery of obligations — Drawing and receipt of warrant — Use of funds.

(a) All such obligations shall be delivered to the State Board of Education, and coincident therewith the Commissioner of Elementary and Secondary Education shall cause a state warrant to be drawn upon the Revolving Loan Fund or the Revolving Certificate Proceeds Account, payable to the treasurer of the issuing school district if the school district has a treasurer or to the county treasurer of the county in which the school district is located if the school district does not have a treasurer, in an amount equal to the principal amount of the revolving loan bonds or revolving loan certificates of indebtedness.

(b) Upon receipt of the state warrant, the school district treasurer or the county treasurer, as the case may be, shall deposit the proceeds thereof to the credit of the school district, and such funds shall thereafter be used by the school district only for the purposes for which the loan is granted.

(c) All revolving loan bonds or revolving loan certificates of indebtedness shall be negotiable instruments, as set forth in § 6-20-806, and any or all such obligations may be assigned and sold by the commissioner.

(d) Any sale pursuant to subsection (c) of this section shall be in the open market upon not fewer than four (4) invitations for bids and, in consummation of any such sale, the commissioner, or such other person as may be designated by the state board, may execute and deliver such assignments, notices, servicing agreements, and other agreements and writings as may be appropriate.

(e) The proceeds of any sale pursuant to this section shall be deposited into the Revolving Certificate Proceeds Account, subject to payment of the costs of sale and servicing of such revolving loan bonds or revolving loan certificates of indebtedness, as set forth in written instructions executed by the commissioner or such other person as may be designated by the state board.

(f) The state board shall have authority to adopt rules necessary to implement this section.

History. Acts 1953, No. 384, § 11; 1973, No. 59, § 7; 1979, No. 541, § 2; A.S.A. 1947, § 80-951; Acts 1991, No. 1185, § 1; 1993, No. 977, § 1; 2019, No. 315, § 283.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (f).

6-20-812. Interest and payments of principal deposited into State Treasury.

(a) Subject to the provisions of subsection (b) of this section, all interest received on securities held in the Revolving Loan Fund shall be deposited into the State Treasury and credited to the Permanent School Revolving Loan Fund.

(b) In the event of the sale of any school district obligations pursuant to § 6-20-811, all principal and interest payments on such school district obligations shall be regarded and treated as cash funds and shall not be deposited into the State Treasury, but shall be deposited into a bank or banks approved by the Commissioner of Elementary and Secondary Education.

History. Acts 1953, No. 384, § 13; 1967, No. 480, § 2; A.S.A. 1947, § 80-953; Acts 1991, No. 1185, § 2; 2021, No. 544, § 39.

Amendments. The 2021 amendment substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (b).

6-20-813. Principal and interest charge against revenues of school district.

Principal and interest maturities of obligations issued under the provisions of this subchapter shall be a charge against the revenues of the school district for the fiscal year in which the maturities are respectively due.

History. Acts 1953, No. 384, § 14; A.S.A. 1947, § 80-954.

6-20-814. Default or threatened default.

(a) In the event of a default or threatened default in the payment of the principal of or interest on any revolving loan bonds or revolving loan certificates of indebtedness, the Commissioner of Elementary and Secondary Education is authorized and directed to withhold from the apportionment otherwise due any borrowing school district, moneys in amounts sufficient to obviate or avoid any default or threatened default.

(b) The Chief Fiscal Officer of the State shall prescribe the method of procedure to be followed in any such event to obviate or avoid any default or threatened default.

(c) Under such rules as shall be established by the Chief Fiscal Officer of the State, all maturities of principal and interest, as and when due, may be withheld from any such apportionments when mutually agreeable to the commissioner and the board of directors of the debtor school district.

History. Acts 1953, No. 384, § 15; 1973, No. 59, § 8; A.S.A. 1947, § 80-955; Acts 2019, No. 315, § 284.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (c).

6-20-815. Refunding obligations.

(a) In order that the Revolving Loan Program may be kept on a sound financial basis, school districts having heretofore issued revolving loan bonds or revolving loan certificates of indebtedness are authorized to issue refunding bonds, in the case of revolving loan bonds, and refunding certificates, in the case of revolving loan certificates of indebtedness, herein collectively referred to as refunding obligations.

(b) Refunding obligations may be issued pursuant to the prior approval of the State Board of Education and may bear a higher rate of interest than the bonds or certificates being refunded.

(c) The last maturity date of the refunding obligations must not be later than the last maturity date of the bonds or certificates being refunded.

(d) Refunding obligations shall enjoy the same security for their payment as was enjoyed by the bonds or certificates refunded thereby, including particularly and without limitation, any continuing annual debt service fund tax voted and pledged to their payment.

(e) Except as to particulars dealt with in this section, refunding obligations shall be governed, insofar as their authorization and security are concerned, by the provisions of this subchapter.

History. Acts 1953, No. 384, § 16, as added by Acts 1967, No. 480, § 3; A.S.A. 1947, § 80-957; Acts 2011, No. 989, § 63.

6-20-816. Fees prohibited.

(a) No fees of any nature, fiscal agent’s, legal, or otherwise, shall be paid either directly or indirectly for any service performed with respect to any loan made under the provisions of this subchapter.

(b) Any person who shall give or receive any such fee, or any person who shall use or cause to be used the proceeds of any such loan for any school purpose other than that for which it is made, shall be guilty of a Class B misdemeanor.

History. Acts 1953, No. 384, § 12; A.S.A. 1947, § 80-952; Acts 2005, No. 1994, § 385.

6-20-817. Prior loans validated.

All outstanding loans evidenced by revolving loan bonds and certificates of indebtedness made under the provisions of the laws or parts of laws repealed by this subchapter are validated, ratified, and confirmed; such evidences of debt are, respectively, found and declared to be the valid and subsisting obligations of the makers in accordance with the

terms thereof, and the pledges to secure the payment of such obligations shall continue to be pledged for such purpose.

History. Acts 1953, No. 384, § 17, as renumbered by Acts 1967, No. 480, § 3; A.S.A. 1947, § 80-956.

Publisher's Notes. Acts 1953, No. 384, § 17 repealed the following laws: Acts 1931, No. 169, §§ 103, 107, 108, 110-126; Acts 1937, No. 162, §§ 8-10; Acts 1939,

No. 91; Acts 1943, No. 176, §§ 1-4; Acts 1943, No. 179, second, third, fourth, and fifth unnumbered paragraphs; Acts 1943, No. 276; Acts 1943, No. 201; Acts 1945, No. 303, second and third unnumbered paragraphs of § 3, § 4; and Acts 1947, No. 178, § 2.

6-20-818. Loans to education service cooperatives.

(a) Subject to the conditions and limitations of this section, any education service cooperative established under The Education Service Cooperative Act of 1985, § 6-13-1001 et seq., may borrow, and the State Board of Education may lend, moneys in the Revolving Loan Fund.

(b) The maximum amount of money an education service cooperative may owe the Revolving Loan Fund at any one time is that equal to a six-month's basic grant for the fiscal year in which a loan is sought.

(c)(1) The board of directors of any education service cooperative desiring to borrow money from the Revolving Loan Fund, acting through its executive director, shall file a formal application with the state board.

(2) The application shall contain the following information:

(A) The name and location of the education service cooperative;

(B) The date and place of the meeting of the board of directors at which action was taken authorizing the executive director to make formal application for a loan;

(C) The estimated amount that it proposes to borrow, together with supporting evidence upon which the estimate is based;

(D) The purpose for which the proceeds of the loan would be used;

(E) The security for the loan and the method and schedule for repayment; and

(F) Such additional information as may be required by the state board.

(d) After considering the merits of each application, the state board may, in its discretion:

(1) Approve the application for the full amount of the proposed loan;

(2) Approve the application for a loan of a lesser amount than the amount requested; or

(3) Disapprove the application.

(e)(1) Each such loan, which is to be paid in full as to both principal and interest within or at the end of ten (10) years from the date of its approval by the state board, shall be evidenced by a certificate executed by the Commissioner of Elementary and Secondary Education.

(2) Thereafter, each such certificate shall be a negotiable instrument.

History. Acts 1995, No. 756, § 1; 2001, No. 1220, § 14; 2007, No. 617, § 14; 2021, No. 544, § 40.

Amendments. The 2021 amendment substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (e)(1).

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2001 Arkansas General Assembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

SUBCHAPTER 9 — REVOLVING LOAN PROGRAM — STATE BOARD OF EDUCATION CERTIFICATES

SECTION.	SECTION.
6-20-901. Construction and implementation of subchapter.	6-20-905. Collateral.
6-20-902. Certificates generally.	6-20-906. Authority to purchase certificates.
6-20-903. Execution and validity of certificates.	6-20-907. Revolving Certificate Proceeds Account.
6-20-904. Obligations — Security — Payment.	6-20-908. Tax exemptions — Exception.

Effective Dates. Acts 1967, No. 479, § 10; Apr. 4, 1967. Emergency clause provided: “It is hereby declared that the Revolving Loan Program of the State of Arkansas is essential to the welfare of many school districts in this State; that the authority conferred by this act is necessary for the effective operation of the Revolving Loan Program; and that the money is immediately needed for the proper operation and continuation of the Revolving Loan Program and can be obtained only by the issuance of the Certificates authorized in this act. It is, therefore, declared that an emergency exists and this act being necessary for the immediate preservation of the public peace, health and safety shall take effect and be in force from and after its passage and approval.”

6-20-901. Construction and implementation of subchapter.

- (a) This subchapter shall be construed liberally.
- (b) In this regard, it is determined and declared that this subchapter is the sole authority necessary for the performance of the acts authorized including, without limitation, the issuance of the certificates.
- (c) There is conferred upon the State Board of Education and upon the Board of Trustees of the Arkansas Teacher Retirement System the authority to take all action and do or cause to be done such things as shall be necessary or desirable to accomplish and implement the purposes and intent of this subchapter according to the import of this subchapter.

History. Acts 1967, No. 479, § 8; A.S.A. 1947, § 80-965.

6-20-902. Certificates generally.

(a) In order to obtain funds needed for the proper operation of its Revolving Loan Program, the State Board of Education is authorized to issue from time to time certificates of indebtedness.

(b) The aggregate principal amount of all certificates outstanding at one time may not exceed five million dollars (\$5,000,000).

(c) The certificates may be in such form and denominations, may have such date, may mature at such time, may bear interest payable at such times and at such rates, may be payable at such place or places, may be subject to such terms of redemption before maturity at such prices, and may contain such other terms and provisions as the state board shall determine.

(d) The certificates shall be negotiable instruments under the laws of the State of Arkansas.

History. Acts 1967, No. 479, § 1; A.S.A. 1947, § 80-958.

6-20-903. Execution and validity of certificates.

(a) The certificates shall be executed by the manual signatures of the Chair of the State Board of Education and the Secretary of the State Board of Education.

(b) In case any of the officers whose signatures appear on the certificates shall cease to be that officer before the delivery of the certificates, his or her signature shall nevertheless be valid and sufficient for all purposes.

History. Acts 1967, No. 479, § 2; A.S.A. 1947, § 80-959.

6-20-904. Obligations — Security — Payment.

(a) The certificates shall be obligations of the State Board of Education only, secured by a pledge of the collateral and payable from the proceeds realized from the collateral, as specified in § 6-20-905.

(b) The certificates shall not be obligations of the State of Arkansas and shall not be secured by a pledge of any revenues belonging to the State of Arkansas.

(c) It shall be stated on the face of each certificate that it has been issued under this subchapter.

History. Acts 1967, No. 479, § 4; A.S.A. 1947, § 80-961.

6-20-905. Collateral.

(a) The State Board of Education shall purchase out of the Revolving Certificate Proceeds Account and shall set aside as collateral revolving loan bonds of school districts that bear the same or greater rates of

interest and, in the aggregate, equal the principal amount of the certificates with the end in view of ensuring the availability at all times of collateral that will produce sufficient funds to meet interest and principal payments on the certificates as they become due.

(b) The collateral shall either be delivered to the holder of the certificate to which applicable or held as a separate fund for the benefit of the holder.

(c) The collateral must mature at such times as will permit the principal of the certificates to be paid as it becomes due.

(d) The interest and principal payments received on the collateral shall be applied to the payment of the interest on and principal of the certificate to which it is pledged.

(e) The delivery or setting aside of the collateral as provided in this subchapter shall constitute a valid and perfected pledge thereof without more, notwithstanding the provisions of any other law pertaining to pledges and their perfecting which, but for the provisions of this subchapter, would be applicable.

History. Acts 1967, No. 479, § 5; A.S.A. 1947, § 80-962.

6-20-906. Authority to purchase certificates.

(a) The Board of Trustees of the Arkansas Teacher Retirement System, hereinafter called the "Teacher Retirement Board", is authorized to purchase certificates issued under this subchapter.

(b) Payment may be effected in the State Treasury by charging the Teacher Retirement Fund with the purchase price and crediting the Revolving Loan Fund of the State Board of Education.

(c) Any certificate so purchased by the Teacher Retirement Board shall be delivered to the custodian of the Arkansas Teacher Retirement System.

History. Acts 1967, No. 479, § 6; A.S.A. 1947, § 80-963.

6-20-907. Revolving Certificate Proceeds Account.

(a) The State Board of Education must receive no less than par and accrued interest for the certificates, which are called "proceeds".

(b) The proceeds shall not be deposited into the Revolving Loan Fund and the certificates shall not be considered obligations owned by the state board for purposes of Acts 1963, No. 443, and the obligations of the state board thereunder.

(c) The state board shall deposit the proceeds into a special fund designated "State Board Certificate Revolving Loan Account", herein sometimes called "Revolving Certificate Proceeds Account".

(d) Any moneys in the Revolving Certificate Proceeds Account not immediately required for the Revolving Loan Program may be invested, pursuant to the direction of the Commissioner of Elementary and

Secondary Education, in direct obligations of the United States, and all earnings on investments shall remain in and be part of the Revolving Certificate Proceeds Account.

History. Acts 1967, No. 479, § 3; A.S.A. 1947, § 80-960; Acts 2021, No. 544, § 41.

Publisher's Notes. Acts 1963, No. 443, referred to in this section, was a special act concerning the State Board of Education's purchase of the State Highway

Building from the State Highway Commission.

Amendments. The 2021 amendment substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (d).

6-20-908. Tax exemptions — Exception.

The principal of and interest on certificates issued under the authority of this subchapter shall be exempt from all state, county, and municipal taxes; this exemption shall include income, inheritance, and estate taxes.

History. Acts 1967, No. 479, § 7; A.S.A. 1947, § 80-964.

A.C.R.C. Notes. Language excluding property taxes from the exemption provided by this section was deleted pursuant to Arkansas Constitution, Amendment 57, § 1, and § 26-3-302. Arkansas Constitution, Amendment 57, § 1, provides that the General Assembly may classify intangible personal property for assessment at

lower percentages of value than other property and may exempt one or more classes of intangible personal property from taxation, or may provide for the taxation of intangible personal property on a basis other than ad valorem. Section 26-3-302 exempts all intangible personal property in this state from all ad valorem tax levies of counties, cities, and school districts in the state as of January 1, 1976.

SUBCHAPTER 10 — REVOLVING LOAN PROGRAM — ALTERNATIVE STATE FINANCING

SECTION.

- 6-20-1001. [Repealed.]
- 6-20-1002. Construction.
- 6-20-1003. Authority to engage and pay for professional help.
- 6-20-1004. Authority to issue bonds.
- 6-20-1005. Maximum amount of bonds.
- 6-20-1006. Authorizing resolution — Nature and contents of bonds.
- 6-20-1007. Issuance and designation of bonds.
- 6-20-1008. Sale and award of bonds.
- 6-20-1009. Execution of bonds — Signatures.

SECTION.

- 6-20-1010. Deposit of proceeds.
- 6-20-1011. Obligations.
- 6-20-1012. Validation of bonds and certificates.
- 6-20-1013. Tax exemptions.
- 6-20-1014. Investment of retirement system funds.
- 6-20-1015. Refunding bonds.
- 6-20-1016. Prohibition on creation of rights.
- 6-20-1017. Purchase of bonds and certificates by Treasurer of State.

Effective Dates. Acts 1973, No. 59, § 17; Feb. 6, 1973. Emergency clause provided: "It has been found and it is hereby declared by the General Assembly that the existing authority for the financing of the revolving loan program administered by the Board is inadequate and costly in

that additional funds could be obtained at less cost if the Board were enabled to borrow from customary sources on a competitive bid basis. Therefore an emergency is declared to exist and this Act, being immediately necessary for the preservation of the public peace, health and safety,

shall be in full force and effect upon its passage and approval.”

Acts 1973, No. 886, § 2: Apr. 18, 1973. Emergency clause provided: “It is hereby found and determined by the General Assembly that the issuance of Revolving Loan Bonds and/or Revolving Loan Certificates of Indebtedness are essential to the operation of the public schools in this State, and that the immediate passage of this Act is necessary to enable the State Treasurer to purchase said Revolving Loan Bonds and/or Certificates of Indebtedness whenever the State Board of Education, or the Director of the Department of Education, acting on the authority of the State Board of Education, shall determine that the purchase thereof by the State Treasurer is necessary in order to provide said Loan funds to school districts. Therefore an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.”

Acts 1979, No. 541, § 9: Mar. 23, 1979. Emergency clause provided: “It has been found and it is hereby declared that the Revolving Loan Program of the State Board of Education can no longer be financed, due to the legal inability of participating school districts to pay interest at rates which would permit the Board to issue its bonds at interest rates acceptable to the market and that school districts are presently in need of the funds customarily provided under the Revolving Loan Pro-

gram. Therefore, an emergency is declared to exist and this Act, being necessary for the preservation of the public peace, health and safety, shall be in force upon its passage and approval.”

Acts 1980 (1st Ex. Sess.), No. 56, § 3: Jan. 31, 1980. Emergency clause provided: “It is hereby found and determined that the sale of bonds to finance public school construction is not feasible under the existing statutory maximum interest limitations on the sale of school district bonds and State Board of Education Bonds; that construction of school facilities is essential to the efficient operation of the public school system of the state; and the immediate effectiveness of this Act is necessary to enable school districts to sell bonds to finance needed school construction. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health and safety, shall be in effect from and after its passage and approval.”

Acts 1983, No. 880, § 6: Mar. 28, 1983. Emergency clause provided: “It is hereby found and determined that school districts and the State Board of Education are presently unable to finance essential facilities for public education within the present maximum interest rate limitations on debt obligations issued by the Board and school districts. An emergency is declared to exist and this Act, being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.”

6-20-1001. [Repealed.]

Publisher's Notes. This section, concerning definition of maximum lawful rate of interest, was repealed by Acts 2015, No. 846, § 18. The section was derived from

Acts 1973, No. 59, § 2; 1983, No. 880, § 3; A.S.A. 1947, § 80-967; Acts 2003, No. 210, § 2.

6-20-1002. Construction.

(a) This subchapter shall be construed liberally. The enumeration of any object, purpose, power, manner, method, and thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods, and things.

(b) The provisions of this subchapter are supplemental and shall not be construed to affect in any way the authority of the State Board of

Education to issue certificates of indebtedness under the provisions of § 6-20-901 et seq. The certificates are also known as the “state board certificates”.

History. Acts 1973, No. 59, §§ 3, 14; 1979, No. 541, § 4; A.S.A. 1947, §§ 80-968, 80-976.

6-20-1003. Authority to engage and pay for professional help.

The State Board of Education is authorized to engage and pay professional, technical, and other help it shall determine to be necessary or desirable in assisting it to carry out effectively the authorities, functions, powers, and duties conferred and imposed upon it by this subchapter.

History. Acts 1973, No. 59, § 11; A.S.A. 1947, § 80-973.

6-20-1004. Authority to issue bonds.

The State Board of Education is authorized to issue bonds from time to time, as described hereinafter, and to use the proceeds thereof, together with other available funds, for the purpose of financing the operation of the Revolving Loan Program, as administered by the state board pursuant to § 6-20-801 et seq. or any similar law, as set forth herein, paying expenses incidental to the sale and issuance of the bonds, providing for necessary reserves to secure the bonds, and providing for payments of debt service on the bonds until revenues are available.

History. Acts 1973, No. 59, § 1; 1979, No. 541, § 3; A.S.A. 1947, § 80-966.

6-20-1005. Maximum amount of bonds.

The total principal amount of the bonds outstanding at any time shall not exceed fifteen million dollars (\$15,000,000).

History. Acts 1973, No. 59, § 3; 1979, No. 541, § 4; A.S.A. 1947, § 80-968.

6-20-1006. Authorizing resolution — Nature and contents of bonds.

(a) The bonds shall be authorized by resolution of the State Board of Education.

(b) The bonds may be coupon bonds, payable to bearer, or may be registered as to principal only or as to principal and interest, and may be made exchangeable for bonds of another denomination, may be in such form and denomination, may have such date or dates, may be stated to mature at such time or times, may bear interest payable at

such times and at such rate or rates, may be made payable at such places within or without the State of Arkansas, may be made subject to such terms of redemption in advance of maturity at such prices, and may contain such terms and conditions, all as the state board shall determine.

(c) The bonds shall have all the qualities of negotiable instruments under the laws of the State of Arkansas, subject to provisions as to registration, as set forth in subsection (b) of this section.

(d) The authorizing resolution may provide for the execution by the state board of a trust indenture with a bank or trust company within or without the State of Arkansas.

(e) The authorizing resolution or the indenture may contain any other terms, covenants, and conditions that are deemed desirable by the state board, including, without limitation, those pertaining to:

(1) The maintenance of various funds and reserves, the nature and extent of the security, the issuance of additional bonds, and the nature of the security and pledge, as set forth in § 6-20-1011, in that event;

(2) The custody and application of the proceeds of the bonds;

(3) The collection and disposition of revenues;

(4) The investing and reinvesting, in securities specified by the state board, of any moneys during the periods not needed for authorized purposes; and

(5) The rights, duties, and obligations of the state board and of the holders and registered owners of the bonds.

History. Acts 1973, No. 59, § 2; 1980 § 3; A.S.A. 1947, § 80-967; Acts 2015, No. (1st Ex. Sess.), No. 56, § 2; 1983, No. 880, 846, § 19.

6-20-1007. Issuance and designation of bonds.

The bonds may be issued at one (1) time or from time to time, and each bond shall bear the designation "Arkansas State Board of Education Consolidated Revolving Loan Bond" and an appropriate designation of the issue or series of which it is a part.

History. Acts 1973, No. 59, § 3; A.S.A. 1947, § 80-968.

6-20-1008. Sale and award of bonds.

(a) The bonds shall be sold at public sale on sealed bids.

(b)(1) Notice of the sale shall be published one (1) time a week for at least two (2) consecutive weeks in a newspaper published in the City of Little Rock and having a general circulation throughout the State of Arkansas, with the first publication to be at least twenty (20) days before the date of sale.

(2) The notice may be published in such other publications as the State Board of Education may determine.

(c) The bonds may be sold at such price as the state board may accept, including sale at a discount.

(d) The award, if made, shall be to the bidder whose bid results in the lowest net interest cost, which shall be determined by computing the aggregate interest cost from date to maturity at the rate or rates bid and deducting the amount of any premium or adding the amount of any discount.

History. Acts 1973, No. 59, § 2; 1980 § 3; A.S.A. 1947, § 80-967; Acts 2015, No. (1st Ex. Sess.), No. 56, § 2; 1983, No. 880, 846, § 20.

6-20-1009. Execution of bonds — Signatures.

(a) The bonds shall be executed by the Chair of the State Board of Education and the Secretary of the State Board of Education.

(b) The coupons attached to the bonds shall be executed by the facsimile signature of the chair.

(c) In case any of the officers whose signatures appear on the bonds or coupons shall cease to be officers before the delivery of those bonds or coupons, their signatures shall, nevertheless, be valid and sufficient for all purposes.

History. Acts 1973, No. 59, § 2; 1983, No. 880, § 3; A.S.A. 1947, § 80-967.

6-20-1010. Deposit of proceeds.

(a) The proceeds of the sale of the bonds of any issue or series shall be deposited into the State Board Certificate Revolving Loan Account created pursuant to § 6-20-907.

(b) The proceeds shall not be deposited into the Revolving Loan Fund, and none of the pledged obligations identified in § 6-20-1011 shall be held by the Treasurer of State or be considered to have been purchased or to be owned by the State Board of Education for any purpose of Acts 1963, No. 443, as amended.

History. Acts 1973, No. 59, § 3; 1979, No. 541, § 4; A.S.A. 1947, § 80-968.

Publisher's Notes. Acts 1963, No. 443, referred to in this section, was a special

act concerning the State Board of Education's purchase of the State Highway Building from the State Highway Commission.

6-20-1011. Obligations.

(a)(1) The bonds shall be special obligations of the State Board of Education only, secured as provided herein.

(2) It shall be plainly stated on the face of each bond that it has been issued under the provisions of this subchapter, that in no event does it constitute an indebtedness for which the faith and credit of the State of Arkansas or any of its revenues are pledged, and that it is not secured by a mortgage or lien on any land or buildings belonging to the State of Arkansas or the state board.

(3) No member of the state board shall be personally liable on any bond or for any damages sustained by anyone in connection with any

contracts entered into in carrying out the purposes and intent of this subchapter unless the member shall have acted with a corrupt intent.

(4) The principal of, interest on, and trustee's and paying agent's fees in connection with the bonds shall be secured by a pledge of and shall be payable from the pledged revenues and the pledged obligations as defined in subsection (c) of this section.

(b) The bonds shall be secured by a pledge of and shall be payable from the payments of principal of and interest on revolving loan certificates of indebtedness or revolving loan bonds of Arkansas school districts acquired by the state board pursuant to § 6-20-801 et seq. or any similar law hereafter enacted, designated by the state board, as set forth in this section.

(c)(1)(A) Each authorizing resolution or indenture shall designate the particular school district revolving loan bonds or revolving loan certificates of indebtedness, also called the pledged obligations, the payments of the principal of and interest on which are to be pledged to payment of the particular issue or series of bonds involved.

(B) Such payments are herein referred to as pledged revenues.

(2) Any authorizing resolution or indenture may provide for the release, exchange, and substitution of pledged obligations and for the release of pledged revenues upon terms and conditions set forth therein and may provide for the issuance of additional bonds secured by a pledge or pledges inferior to or on a parity with the pledge or pledges securing the bonds authorized or secured thereby, upon terms and conditions set forth therein.

(d) Each authorizing resolution or indenture shall provide that the pledged obligations shall be delivered to and held by the trustee, as custodian, or shall be held by the state board in such a way as to be segregated from all other assets of the state board, the details in this regard to be set forth in the authorizing resolution or indenture.

(e) The pledged revenues shall be used solely for payment of the principal of, interest on, and trustee's and paying agent's fees in connection with the bonds, but the authorizing resolution or indenture may provide for release of the pledged revenues as set forth in this section.

(f) The pledged revenues are declared to be cash funds, restricted in their use and dedicated and to be used as provided herein. So long as any of the bonds are outstanding, the pledged revenues shall not be deposited into the State Treasury but shall be deposited, as and when received, into a bank or banks selected by the state board from time to time.

(g) Upon payment or discharge of all bonds of any issue or series outstanding to the payment of which any pledged revenues are pledged, the pledged revenues shall, without further action by the state board, be released from the pledge securing such bonds and shall be deposited into the State Board Certificate Revolving Loan Account or shall be otherwise applied to the financing of the Revolving Loan Program.

History. Acts 1973, No. 59, § 4; 1979, No. 541, § 5; A.S.A. 1947, § 80-969.

6-20-1012. Validation of bonds and certificates.

(a) All outstanding revolving loan bonds and revolving loan certificates of indebtedness issued by school districts and acquired by the State Board of Education pursuant to § 6-20-801 et seq. are found and declared to be valid and to evidence obligations of the school districts by which they are issued, according to their terms, and are validated, ratified, and confirmed.

(b)(1) There shall be delivered to the state board, in connection with the acquisition of all revolving loan bonds and certificates of indebtedness, a copy of the resolution of the board of directors of the issuing school district authorizing such obligations, together with a certificate, executed by the president and secretary of the board of directors of the issuing school district, certifying that the action necessary for the valid authorization and issuance of such obligations has been taken, setting forth a description of such action, and, in the case of such obligations secured in whole or in part by a pledge of collections of an ad valorem tax, accompanied by a certificate executed by the county clerk or county clerks of the county or counties in which the issuing school district is located certifying that such tax has been or will be extended for collection and setting out the year in which such collection commenced or will commence.

(2) Upon the delivery to the state board of such resolution and certificate, such obligations covered thereby shall be conclusively deemed to be valid, and the validity of such obligations shall not thereafter be subject to challenge on any ground.

(3) The state board may prescribe the form of the resolution and certificate provided for in this subsection.

History. Acts 1973, No. 59, § 5; A.S.A. 1947, § 80-970; Acts 1993, No. 502, § 1.

6-20-1013. Tax exemptions.

Bonds issued under the provisions of this subchapter, and the interest thereon, shall be exempt from all state, county, and municipal taxes, and the exemption shall include income, inheritance, and estate taxes.

History. Acts 1973, No. 59, § 9; A.S.A. 1947, § 80-971.

A.C.R.C. Notes. Language excluding property taxes from the exemption provided by this section was deleted pursuant to Arkansas Constitution, Amendment 57, § 1, and § 26-3-302. Arkansas Constitution, Amendment 57, § 1, provides that the General Assembly may classify intangible personal property for assessment at

lower percentages of value than other property and may exempt one or more classes of intangible personal property from taxation, or may provide for the taxation of intangible personal property on a basis other than ad valorem. Section 26-3-302 exempts all intangible personal property in this state from all ad valorem tax levies of counties, cities, and school districts in the state as of January 1, 1976.

6-20-1014. Investment of retirement system funds.

The board of trustees of any retirement system now existing or hereafter created by the General Assembly may, in its discretion, invest its funds in bonds issued under this subchapter.

History. Acts 1973, No. 59, § 10; A.S.A. 1947, § 80-972.

6-20-1015. Refunding bonds.

(a) Bonds may be issued for the purpose of refunding any bonds issued under this subchapter and for the refunding of any state board certificates issued by the State Board of Education.

(b) Refunding bonds may either be sold or delivered in exchange for the bonds being refunded.

(c) If sold, the proceeds may be either applied to the payment of the bonds being refunded or deposited in trust and there maintained in cash or investments for the retirement of the bonds being refunded, as shall be specified by the state board in the resolution or indenture securing the refunding bonds.

(d) The resolution or indenture securing the refunding bonds may provide that the refunding bonds shall have the same priority of pledge as was enjoyed by the bonds refunded.

(e) Refunding bonds shall be sold and secured in accordance with the provisions of this subchapter pertaining to the sale and security of bonds.

History. Acts 1973, No. 59, § 12; A.S.A. 1947, § 80-974.

6-20-1016. Prohibition on creation of rights.

This subchapter shall not create any right, and no right shall arise under it, until the initial issue or series of bonds authorized by this subchapter shall have been sold and delivered by the State Board of Education.

History. Acts 1973, No. 59, § 13; A.S.A. 1947, § 80-975.

6-20-1017. Purchase of bonds and certificates by Treasurer of State.

(a) The Treasurer of State shall, upon written request of the Commissioner of Elementary and Secondary Education, acting on authority of the State Board of Education, purchase from the state board, at par, plus any accrued interest, revolving loan bonds or revolving loan certificates of indebtedness of school districts in this state whenever the state board shall present them to the Treasurer of State for purchase.

(b) All revolving loan bonds or certificates of indebtedness acquired by the Treasurer of State shall be deposited into the Securities Account

in the State Treasury. However, the Treasurer of State's aggregate holdings at any one (1) time of the revolving loan bonds or revolving loan certificates of indebtedness shall not exceed the sum of fifteen million dollars (\$15,000,000).

(c) The moneys that the Treasurer of State may use in the purchase of any revolving loan bonds or revolving loan certificates of indebtedness shall be those funds available for investment under the provisions of the State Treasury Management Law, § 19-3-501 et seq.

(d) The interest received from investments by the Treasurer of State on revolving loan bonds or revolving loan certificates of indebtedness shall be credited to the Securities Reserve Fund to be used for the same purposes as other moneys deposited into said fund as provided by law.

(e) The Treasurer of State shall sell and redeliver any such revolving loan bonds or revolving loan certificates of indebtedness to the state board, upon request, at a price of par plus accrued interest to the date of such redelivery.

History. Acts 1973, No. 886, § 1; 1979, No. 541, § 6; 1981, No. 549, § 2; A.S.A. 1947, § 80-977; Acts 1987, No. 832, § 1; 1995, No. 1143, § 1; 2021, No. 544, § 42.

Amendments. The 2021 amendment substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (a).

SUBCHAPTER 11 — REVOLVING LOAN FUND — EMERGENCY REVOLVING LOAN FUND ACCOUNT

[Repealed.]

SECTION.

6-20-1101. [Repealed.]

6-20-1102 — 6-20-1108. [Repealed.]

6-20-1101. [Repealed.]

Publisher's Notes. This section, concerning the scope of the subchapter, was repealed by Acts 2009, No. 376, § 40. The

section was derived from Acts 1973, No. 218, § 6; A.S.A. 1947, § 80-983.

6-20-1102 — 6-20-1108. [Repealed.]

Publisher's Notes. These sections, concerning the Revolving Loan Fund, were repealed by Acts 1989, No. 784, § 4. The sections were derived from the following sources:

6-20-1102. Acts 1973, No. 218, § 1; A.S.A. 1947, § 80-978.

6-20-1103. Acts 1973, No. 218, § 4; A.S.A. 1947, § 80-981.

6-20-1104. Acts 1973, No. 218, § 2; A.S.A. 1947, § 80-979.

6-20-1105. Acts 1973, No. 218, § 5; A.S.A. 1947, § 80-982.

6-20-1106. Acts 1973, No. 218, § 3; A.S.A. 1947, § 80-980.

6-20-1107. Acts 1973, No. 218, § 6; A.S.A. 1947, § 80-983.

6-20-1108. Acts 1973, No. 218, § 7; A.S.A. 1947, § 80-984.

SUBCHAPTER 12 — DISTRICT BONDS

SECTION.

- 6-20-1201. Authority to borrow money and issue negotiable bonds.
- 6-20-1202. Limitations of bonded indebtedness — Conversion of authorized bond issues.
- 6-20-1203. Bonds to comply with existing statutes.
- 6-20-1204. Form of bonds — Security.
- 6-20-1205. Submission of statement before issuing bonds — Approval.
- 6-20-1206. Manner and terms of sale — Maximum rate of interest.
- 6-20-1207. Delivery and payment in installments.
- 6-20-1208. Delivery of bonds upon payment in cash — Registration and recording.
- 6-20-1209. Debt service fund — Establishment and purpose.
- 6-20-1210. Debt service fund — Use.
- 6-20-1211. Tax records — Separate debt service fund records.
- 6-20-1212. Resolution setting priority in case of default.
- 6-20-1213. Duty to pay on maturity — Effect of failure.
- 6-20-1214. Obligations on district dissolution.

SECTION.

- 6-20-1215. Approval of bond issues.
- 6-20-1216. Refunding bonds — Authority to use.
- 6-20-1217. [Repealed.]
- 6-20-1218. Refunding bonds — Maximum amounts — Conversion and sale.
- 6-20-1219. Record of bond issues.
- 6-20-1220. Refunding bonds — Issuance with election — Validation.
- 6-20-1221. [Repealed.]
- 6-20-1222. Sale of school property securing deed of trust — Release of lien.
- 6-20-1223. Refunding bonds — Issuance without election.
- 6-20-1224. Payment in full — Endorsement and certificate.
- 6-20-1225. Certificates of indebtedness.
- 6-20-1226. Advancements for bond payments by county treasurer before settlement date.
- 6-20-1227. [Repealed.]
- 6-20-1228. Issuance of bonds — Refunding of bonded indebtedness — Maintenance and operation of schools.
- 6-20-1229. Issuance of second-lien commercial bonds — Definitions.

Preambles. Acts 1935, No. 336 contained a preamble which read: "Whereas, many school districts of Arkansas find it absolutely necessary to secure immediate relief from present heavy annual requirements for payment of principal and interest of outstanding bonded indebtedness, in order to have sufficient revenue available for current operation and maintenance; and

"Whereas, the statutes of Arkansas now provide a method of submitting school bond refunding proposals to a vote of the electors of the respective districts ..."

Acts 1939, No. 341 contained a preamble which read: "Whereas, many school districts of Arkansas have either paid in full or refunded old bond issues which were secured by deeds of trust naming nonresident trustees, some of whom were banks and trust companies that have

since been dissolved and are no longer engaged in business, but the liens of said trust deeds are still unsatisfied and hamper the school district in the disposition or use of its property and especially in the sale or conveyance of any property that has been abandoned for school purposes ..."

Acts 1943, No. 151 contained a preamble which read: "Whereas, school districts in Arkansas, desiring to avail themselves of the beneficial purposes of the federal statutes authorizing the composition of indebtedness of taxing agencies, find that they are not able to reach an agreement with the holders of their outstanding bonds upon the basis of the cash loan value of such bonds, but must make provision for the payment of part of the accrued and past due interest on such bonds;

"Now, therefore"

Acts 1947, No. 84 contained a preamble which read: "Whereas, the limitation on bonded indebtedness to seven percent of the assessed valuation set up by section 11493 of Pope's Digest of the Statutes of Arkansas was fixed by Act 169 of 1931 at a time when the school districts of Arkansas were in difficult financial circumstances, and many of them were in default, so that the prevailing rate of interest was from five to six per centum per annum, and interest charges were a very burdensome part of any school debt; and

"Whereas, due to excellent financial management and wise and careful State supervision, the school districts of Arkansas have overcome the unfavorable standing of 1931 and now enjoy a high credit rating and are able to borrow money at low interest rates, so that the interest burden of a present-day loan is much less than the interest burden of the same principal amount in 1931; and

"Whereas, because of the large increase in the cost of construction and equipment, it will be necessary to grant the school districts of the State a greater borrowing power for buildings and equipment;

"Now, therefore"

Acts 1951, No. 388 contained a preamble which read: "Whereas, certain school districts in the State of Arkansas now have outstanding bond issues which bond issues require payment of interest and principal prior to the date said districts will receive funds from the County Treasurer accruing under the levy made by the districts for the payment of principal and interest on the bonds, and

"Whereas, certain districts are being required to perpetually execute short term loans to prevent default in bond payments and interest,

"Now, therefore"

Effective Dates. Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately ad-

minister to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1935, No. 63, § 5: approved Feb. 20, 1935. Emergency clause provided: "It is found as a fact that many school districts in the State are closed, or are in danger of being closed because of financial difficulties and pressing indebtedness and there is immediate need for relief to said school districts by enabling them to refund outstanding bonds and prevent the closing of their schools; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1935, No. 336, § 2: became law without Governor's signature on Apr. 4, 1935. Emergency clause provided: "It is found as a fact that many school districts in the State are closed, or are in danger of being closed because of financial difficulties, and there is immediate need for relief to said school districts by enabling them to refund outstanding bond issues in order to have money for present maintenance and operating expenses, and thus prevent the closing of their schools by suits on defaulted bond issues; therefore it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1939, No. 326, § 4: approved Mar. 15, 1939. Emergency clause provided: "The passage of this act being necessary in order to permit the proper use of school funds of this state and to permit the operation of the schools of this state and the foregoing needs being so urgent as to be necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage."

Acts 1939, No. 341, § 4: approved March 16, 1939. Effective date clause provided: "This act shall be in force from and after its passage."

Acts 1941, No. 95, § 5: approved Feb. 26, 1941. Emergency clause provided: "It is hereby ascertained and declared that, because of the unusually low interest rates at which school bonds can now be refunded and the savings that many school districts can make will enable them to hold full term schools, to make better provision to care for the urgent needs of the health and safety of their students, an emergency exists and this act is necessary for the preservation of the public peace, health and safety and shall take effect and be in force from and after its passage."

Acts 1943, No. 151, § 2: Mar. 4, 1943. Emergency clause provided: "Because many school districts of the State have been so badly handicapped by indebtedness that their efficiency has been impaired and they have an opportunity at this time to avail themselves of federal statutes passed for their relief, which opportunity may not continue, an emergency is ascertained and declared and this act, being necessary for the preservation of the public peace, health and safety, shall become effective without delay upon its passage and approval."

Acts 1947, No. 84, § 4: Feb. 18, 1947. Emergency clause provided: "It is hereby ascertained and declared that, because of the serious shortage in schoolhouses and school equipment, there is great danger that many of the school districts in the State will be forced to suspend operation and children of the State will be deprived of the opportunity for education; that an emergency exists and this act, being necessary for the preservation of the public peace, health and safety, shall become effective upon and after its passage and approval."

Acts 1949, No. 161, § 4: approved Feb. 24, 1949. Emergency clause provided: "Because of the urgent demand for new buildings and adequate equipment to service the school needs of the state, and because of the dangerous state of repair of some school buildings, it is hereby ascertained and declared that an emergency exists, and this Act, being necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage."

Acts 1951, No. 388, § 2: Mar. 20, 1951. Emergency clause provided: "Whereas, certain school districts are having to perpetually execute short term loans which loans involve the payment of double interest, and funds are available in the hands of the treasurer belonging to the district which may be used to prevent the perpetuation of short term loans a saving may be effected by the districts under the provisions of this act and in order to more effectively preserve the public peace, health and general welfare an emergency is found to exist and the provisions of this act shall be in full force and effect from and after its passage and approval."

Acts 1965, No. 43, § 4: Feb. 9, 1965. Emergency clause provided: "It is hereby found and declared that the Board of Directors of the various School Districts of this State may be able to effect substantial savings in total principal and interest payments by issuing refunding bonds authorized by this Act and that the authority conferred hereby should be available as soon as possible in order for said Boards of Directors to be in a position to take advantage of any favorable bond market conditions that may exist. Therefore, an emergency is declared to exist and this Act being essential for the preservation of the public health, safety and welfare shall take effect and be in force from and after its passage and approval."

Acts 1970 (1st Ex. Sess.), No. 64, § 4: Mar. 13, 1970. Emergency clause provided: "It has been found and is hereby declared by the General Assembly of the State of Arkansas that the financing of the public improvements to which this Act pertains is not feasible under existing maximum interest rate limitations, that the accomplishment of these public improvements is essential to the continued development of this State and the continued improvement of the economic conditions of her people, and that these public improvements can be accomplished only by the immediate effect of this Act. Therefore, an emergency is declared to exist and this Act, being necessary for the preservation of the public peace, health and safety, shall be in effect from and after its passage and approval."

Acts 1975, No. 220, § 4: Feb. 18, 1975. Emergency clause provided: "It is hereby found and declared that the existing practice of granting mortgages on the property

of a school district as security for its bonds is unnecessary to the marketability of the bonds and unduly and unnecessarily hampers the directors of school districts in the management, control and disposition of properties of the district. Therefore, an emergency is declared to exist and this Act, being necessary for the preservation of the public peace, health and safety, shall be effective upon its passage and approval."

Acts 1975, No. 596, § 2: Mar. 28, 1975. Emergency clause provided: "It is hereby found and determined by the General Assembly that a number of school districts in this State in which are situated substantial acreages of National Forest Lands are encountering difficulty in obtaining funds to construct needed classroom buildings and to make other improvements essential to the operation of the schools, and that the immediate passage of this Act is necessary in order to enable school districts to incur additional bonded indebtedness within limitations established herein, upon approval of the State Board of Education at the March, 1975 general election; and, that the immediate passage of this Act is necessary to accomplish said purposes. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval."

Acts 1975 (Extended Sess., 1976), No. 1233, § 4: Feb. 16, 1976. Emergency clause provided: "It is hereby found and declared that the various School Districts of this State may be able to effect substantial savings in total principal and interest payments by issuing refunding bonds authorized by this Act and that the authority conferred hereby should be available as soon as possible. Therefore, an emergency is declared to exist and this Act being essential for the preservation of the public peace, health and safety shall take effect and be in force from and after its passage and approval."

Acts 1979, No. 460, § 3: Mar. 21, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that the present limitation on the bonded indebtedness of school districts is creating a serious hardship on some districts in the State; that it is essential to an effective and efficient public school system

in some districts that the State Board of Education be permitted to allow districts, in hardship cases, to increase maximum indebtedness to twenty percent (20%) of the assessed value of property in the district; that this Act is designed to enable the Board to permit such increase and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1980 (1st Ex. Sess.), No. 56, § 3: Jan. 31, 1980. Emergency clause provided: "It is hereby found and determined that the sale of bonds to finance public school construction is not feasible under the existing statutory maximum interest limitations on the sale of school district bonds and State Board of Education Bonds; that construction of school facilities is essential to the efficient operation of the public school system of the state; and the immediate effectiveness of this Act is necessary to enable school districts to sell bonds to finance needed school construction. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health and safety, shall be in effect from and after its passage and approval."

Acts 1981, No. 661, § 3: Mar. 23, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that the existing bonded indebtedness limit on school districts is too low, and that the limitation is in need of immediate increase, and that this Act so provides. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 812, § 2: Mar. 28, 1981. Emergency clause provided: "It is hereby found and determined by the General Assembly that nationwide increases in interest rates are making it difficult for many school districts in this State to issue bonds necessary to provide the funds required for construction, repair and improvement of public school facilities within the limitation now imposed by statute on school bonds issued by school districts, and that the immediate passage of this Act is nec-

essary to increase the maximum authorized rate of interest to be paid on school bonds to ten percent (10%) per annum, and that the immediate passage of this Act is necessary to offer financial relief to school districts in obtaining the funds essential to the public education program in this State. Therefore, an emergency is hereby declared to exist, and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 880, § 6: Mar. 28, 1983. Emergency clause provided: "It is hereby found and determined that school districts and the State Board of Education are presently unable to finance essential facilities for public education within the present maximum interest rate limitations on debt obligations issued by the Board and school districts. An emergency is declared to exist and this Act, being immediately necessary for the preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1987, No. 1018, § 4: Apr. 14, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that because of the case *Ricarte v. State*, CR 86-31, a question has arisen over the validity of Act 1233 of the Extended Session of 1976; that this Act is a reenactment of the former law; and that the immediate passage of this Act is necessary to clarify the state of the law on this issue. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval."

Acts 1989 (3rd Ex. Sess.), No. 64, § 8: Nov. 16, 1989. Emergency clause provided: "It is hereby found and declared that the various school district of this state may be able to effect substantial savings in total principal and interest payments by issuing refunding bonds authorized by this Act and that the authority conferred hereby should be available as soon as possible to permit more monies to be available for the use of the school districts of this state. Therefore, an emergency is declared to exist and this Act being essential for the preservation of the public peace, health and safety shall take

effect and be in force from and after its passage and approval."

Acts 1991, No. 405, § 6: Mar. 8, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the Arkansas school districts have an urgent need to replace aging school buses, acquire additional school buses, and refurbish existing buses which were manufactured after 1977 in order to provide safe, dependable and effective transportation for public school students, and that it is necessary to amend existing law to permit school bus financing through the issuance of commercial bonds in order to allow school districts to finance buses at the lowest possible cost. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect upon its passage and approval."

Acts 1994 (2nd Ex. Sess.), No. 43, § 5: Aug. 25, 1994. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly that present limitations on the use of negotiable bonds issued by school districts are creating serious hardships for some Arkansas districts; that it is essential to the financial stability of these school districts that they be authorized to issue bonds to pay off and extend certain kinds of short term debt and that the authority conferred hereby should be available as soon as possible. Therefore, an emergency is declared to exist and this Act being essential for the preservation of the public peace, health, and safety shall take effect and be in force from and after its passage and approval."

Acts 1997, No. 1300, § 29: Apr. 10, 1997. Emergency clause provided: "It is found and determined by the General Assembly that Amendment No. 74 to the Arkansas Constitution was adopted by the electors of this state on November 5, 1996; that Amendment No. 74 became effective on adoption and applies to ad valorem property taxes due in 1997; that the tax books of each county will open for collection of taxes in the near future and that local officials and school districts must have direction on procedures and effects of the various actions required. The General Assembly further finds that Amendment No. 74 requires enactment of

legislation to implement the provisions thereof and that this act provides such implementation and should be given effect immediately to accomplish the purposes of Amendment No. 74 in an orderly, effective and efficient manner. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1329, § 6: Apr. 10, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that providing bondholders with additional security for payment of school district bonds will permit Arkansas school districts to issue bonds on more favorable terms and at lower rates of interest, and that this legislation must be in effect in order to permit these benefits to school districts who urgently need to finance capital improvements to their physical facilities and who need to refund certain outstanding bonds that will provide substantial savings to the school district. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1045, § 5: Apr. 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that publication of the notice of sale three times prior to selling school bonds is unnecessary and expensive. To help school districts to cut costs of issuing bonds, this act should be given immediate effect. Therefore, an emergency is declared to exist and this act

being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1046, § 9: Apr. 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that under favorable market conditions school districts can issue refunding bonds for the purpose of refunding outstanding bonds at lower rates of interest producing substantial debt service savings in the district; that under current law, districts may not sell or issue refunding bonds without prior approval of the State Board of Education or the Director of the Department of Education; that by the time approval is obtained the market conditions may have changed; that this act is necessary to give school districts greater flexibility in order to take advantage of the most favorable market conditions and produce the greatest debt service savings. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1078, § 92: July 1, 2000.

Acts 1999, No. 1549, § 33: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that not to do so would create confusion in the state's public school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and

safety shall become effective on July 1, 1999.”

Acts 2001, No. 1214, § 2: Mar. 30, 2001. Emergency clause provided: “It is found and determined by the General Assembly that the existing bonded indebtedness limit on school districts that are facing unexpected, unforeseen or extreme hardship is too low and that the immediate passage of this act is necessary for the increase of the limitation. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 2001, No. 1220, § 20: July 1, 2001. Emergency clause provided: “It is found and determined by the General Assembly that changes to the distribution of public school funds must take effect at the time that appropriations become effective and that to not do so would create confusion in the state’s public school districts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on July 1, 2001.”

Acts 2003, No. 210, § 4: Feb. 21, 2003. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that revolving loan bonds, revolving loan certificates of indebtedness, and negotiable bonds are utilized for the financing of school districts in the state; that legislation is needed to amend the definition of maximum lawful rate in order to clarify that revolving loan bonds, revolving loan certificates of indebtedness, and negotiable bonds are utilized for the financing of school districts in the state; that legislation is needed to amend the definition of maximum lawful rate in order to clarify the maximum lawful rate of interest allowed on such indebtedness prior to the next annual school elections or special election called by the school district to comply with recent court orders, and that

this act is immediately necessary because school districts need to restructure their debt in order to comply with recent court orders. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2003 (2nd Ex. Sess.), No. 28, § 10: Emergency clause failed to pass. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has declared that the current method that the state uses to determine compliance with Amendment 74 to be unconstitutional and has instructed the General Assembly to take action before the termination of the court’s stay of its mandate. It is also found that the people must be informed as early as possible the impact of the court’s ruling on the property taxes that they pay for education. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2003 (2nd Ex. Sess.), No. 105, § 12: Feb. 10, 2004. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has declared that the current method that the state uses to determine compliance with Amendment 74 to be unconstitutional and has instructed the General Assembly to take action before the termination of the court’s stay of its mandate. It has also found that the people must be informed as early as possible of the impact of the court’s ruling on the property taxes that they pay for education. Therefore, an emergency is declared to exist and this act

being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Identical Acts 2006 (1st Ex. Sess.), Nos. 22 and 23, § 6: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court found that the public school funding system continues to be inadequate and the public schools are operating under a constitutional infirmity that must be corrected immediately; that statutory limitations on bonded indebtedness for school districts may impair some school districts' ability to raise local resources necessary for the repair, improvement, and replacement of academic facilities; that legislative correction is immediately necessary in order to allow school districts, particularly school districts experiencing rapid growth, to use all available revenue streams in providing an adequate opportunity for an adequate education to every public school student in the state. Therefore, an emergency is declared to exist and this act being necessary for the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current

school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2015, No. 947, § 3: Apr. 2, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there are a number of Arkansas school districts that are losing students; that the laws concerning detachment are not clear in assigning assets and indebtedness between old and new school districts; and that this act is immediately necessary to ensure that a newly created school district is able to secure property and assume debt. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health,

and safety shall become effective on July 1, 2019.”

6-20-1201. Authority to borrow money and issue negotiable bonds.

A school district may borrow money and issue negotiable bonds to repay borrowed moneys from school funds for:

- (1) Building and equipping school buildings;
- (2) Making additions and repairs to school buildings;
- (3) Purchasing sites for school buildings;
- (4) Purchasing new or used school buses;
- (5) Refurbishing school buses;
- (6) Providing professional development and training of teachers or other programs authorized under the federally recognized qualified zone academy bond program, 26 U.S.C. § 1397E [repealed];
- (7) Paying off outstanding postdated warrants, installment contracts, revolving loans, and lease-purchase agreements, as provided by law; and
- (8) In the case of a new school district created under § 6-13-1505:
 - (A) Purchasing school buildings and other structures;
 - (B) Purchasing new or used furniture, fixtures, and equipment;
 - (C) Paying the costs of the allocation of assets to the new school district; and
 - (D) Paying or retiring the outstanding indebtedness of the original school district that the new school district has become responsible for under § 6-13-1505.

History. Acts 1931, No. 169, § 59; Ex. Sess.), No. 43, § 1; 2001, No. 1220, Pope’s Dig., § 11492; A.S.A. 1947, § 80- § 15; 2003, No. 1738, § 4; 2009, No. 1469, 1101; Acts 1991, No. 405, § 1; 1994 (2nd § 10; 2015, No. 947, § 2.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of sembly, Education Law, 24 U. Ark. Little Legislation, 2001 Arkansas General As- Rock L. Rev. 453.

CASE NOTES

ANALYSIS

Invalid Bonds.
Purpose of Bonds.

Invalid Bonds.

Holder of notes executed by the directors of a school district without authority had no lien on the district’s schoolhouse in the construction of which the money was spent. Rural Special School Dist. No. 50 v.

First Nat’l Bank, 173 Ark. 604, 292 S.W. 1012 (1927) (decision under prior law).

Purpose of Bonds.

Where, under separate laws, school district was authorized to issue bonds for different purposes, a single issue might suffice for such purposes. Wilken v. Special Sch. Dist., 181 Ark. 1029, 29 S.W.2d 267 (1930) (decision under prior law).

Former section did not authorize school

directors to pledge any part of tax as security for a loan that was voted for another purpose. *Horne v. Paragould Special School Dist. No. 1*, 186 Ark. 1000, 57 S.W.2d 568 (1933) (decision under prior law).

Building of a gymnasium, library and

auditorium on the school grounds was not an illegal purpose, but a building within the meaning of this section. *Gibson v. State Bd. of Educ.*, 201 Ark. 1165, 148 S.W.2d 329 (1941). See also, *Young v. Linwood School Dist. No. 17*, 193 Ark. 82, 97 S.W.2d 627 (1936).

6-20-1202. Limitations of bonded indebtedness — Conversion of authorized bond issues.

(a) For acquiring a building site, building or equipping a new school building, repairing, making additions to, or equipping a present school building, purchasing new or used school buses or refurbishing school buses, or the professional development and training of teachers or other programs authorized under the federally recognized qualified zone academy bond program codified at 26 U.S.C. § 1397E [repealed], any school district of the State of Arkansas is authorized to borrow money and issue negotiable bonds for the repayment thereof from school funds.

(b) Subsection (a) of this section shall not prohibit the conversion of authorized bond issues to bonds bearing a lower rate of interest, subject to the approval of the Commissioner of Elementary and Secondary Education, upon such terms that the school district shall receive no less and pay no more in principal and interest combined than it would receive and pay in principal and interest combined if the bonds were not converted.

History. Acts 1947, No. 84, § 1; 1949, No. 161, § 1; 1961, No. 38, § 1; 1969, No. 158, § 1; 1975, No. 596, § 1; 1979, No. 460, § 1; 1981, No. 661, § 1; A.S.A. 1947, § 80-1102; Acts 1991, No. 405, § 2; 1993, No. 486, §§ 1, 2; 1995, No. 619, §§ 1, 2; 2001, No. 1214, § 1; 2001, No. 1220, § 16;

2006 (1st Ex. Sess.), No. 22, § 5; 2006 (1st Ex. Sess.), No. 23, § 5; 2021, No. 544, § 43.

Amendments. The 2021 amendment substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (b).

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2001 Arkansas General As-

sembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

CASE NOTES

ANALYSIS

Constitutionality.
Bonded Indebtedness.
Limitation on Bond Issues.

Constitutionality.

Former section authorizing issuance of bonds by school districts was not unconstitutional for attempting to permit the voting of school taxes for purposes not authorized by Ark. Const., Amend. 11.

Lakeside Special School Dist. v. Gaines, 202 Ark. 778, 153 S.W.2d 149 (1941) (decision under prior law).

Bonded Indebtedness.

Floating indebtedness of a school district for which warrants had been issued in payment of the district's notes was not a bonded indebtedness within former section. *Gaster v. Dermott Sch. Dist.*, 184 Ark. 536, 42 S.W.2d 990 (1931) (decision under prior law).

Limitation on Bond Issues.

A school district which already had issued bonds exceeding allowed percentage of the assessed value of the property in the district could not issue additional bonds not intended to refund present bonded indebtedness. *Gaster v. Dermott Sch. Dist.*, 184 Ark. 536, 42 S.W.2d 990 (1931) (decision under prior law).

Where proposed issue of funding bonds together with outstanding bonds was less than allowable percentage of assessed valuation of property in the district and buyer of bonds proposed to convert the issued bonds to lower percentage bonds of larger amount, converted bonds, though exceeding the limitation on district's indebtedness, were valid since total amount of converted bonds, principal and interest

would be equivalent to total amount, principal and interest of the original bonds. *Lakeside Special School Dist. v. Gaines*, 202 Ark. 778, 153 S.W.2d 149 (1941) (decision under prior law).

Where district had authority to issue bonds up to certain percentage of the assessed valuation of the property in the district, and it already had bonds outstanding, it could issue new bonds to the extent of the difference, but any conversion of the bonds into bonds of a larger amount in an effort to secure a lower rate of interest would be invalid. *Lakeside Special School Dist. v. Gaines*, 202 Ark. 778, 153 S.W.2d 149 (1941) (decision under prior law).

Cited: *Sims v. Hazen School Dist. No. 2*, 215 Ark. 536, 221 S.W.2d 401 (1949).

6-20-1203. Bonds to comply with existing statutes.

All bonds authorized to be issued under this statute shall be issued in full compliance with all of the laws governing the issuance of school bonds in effect at the time of their issuance.

History. Acts 1947, No. 84, § 2; A.S.A. 1947, § 80-1103; Acts 2015, No. 846, § 21.

6-20-1204. Form of bonds — Security.

(a) School bonds shall be issued by a school district in the form prescribed by the school district's board of directors.

(b) School bonds may be secured by debt service millage.

(c)(1) As additional security for the payment of any bond of a school district, the Commissioner of Elementary and Secondary Education shall cure a delinquency in payment by withholding state funding due the district.

(2)(A)(i) When the designated paying agent for receipt of the district's payments does not receive a payment when due pursuant to the authorizing documents, the paying agent is entitled to payment from the withheld state funding in an amount sufficient to cure the payment deficiency if the designated paying agent notifies the commissioner and the superintendent of the school district by telephone, facsimile, or other similar communication followed by written verification.

(ii) Unless the commissioner determines that payment has been made by the school district and that there is not a payment deficiency, the commissioner shall withhold from the next distribution of state funding and remit to the paying agent an amount sufficient to cure the deficiency.

(B) If the amount next due to be distributed to the delinquent school district is not sufficient to cure the delinquency, the commis-

sioner shall continue to withhold state funding as due and remit it to the paying agent until the payment deficiency has been cured.

(C) If the commissioner is notified that a school district is delinquent on two (2) or more obligations, the commissioner shall make payment to paying agents in the order of receipt of notices of the delinquencies.

(3) If the commissioner withholds state funding from a school district pursuant to this subsection, the Division of Elementary and Secondary Education shall identify the school district to be a school district in fiscal distress under the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq.

(4) The requirements of this subsection apply to bonds issued by a school district before July 1, 2013.

(d)(1) For school bonds issued by a school district on or after July 1, 2013, a school district shall submit bond payments to its designated paying agent not later than fifteen (15) calendar days before the date the payments are due under the authorizing documents.

(2) Whenever the designated paying agent does not receive a payment within the time period in subdivision (d)(1) of this section, the paying agent immediately shall notify the commissioner and the superintendent of the school district in writing.

(3)(A) If the designated paying agent does not receive the bond payment from the district at least five (5) calendar days before the date the payment is due under the authorizing documents, the division immediately shall cure any deficiency in payment by making payment in the full amount of the deficiency to the designated paying agent.

(B) If the commissioner determines that payment has been made by the school district and that a payment deficiency does not exist, the division shall not make the payment under subdivision (d)(3)(A) of this section.

(C) If the division makes payment under subdivision (d)(3)(A) of this section, it may identify the school district on behalf of which the payment is made to be a school district in fiscal distress under the program.

(D)(i) If the division makes payment under subdivision (d)(3)(A) of this section, a school district shall be indebted to the division in the full amount paid by the division and immediately shall remit the full amount to the division.

(ii) If a school district does not remit the full amount to the division under subdivision (d)(3)(D)(i) of this section, the division shall withhold from the school district the next distribution of state funding in an amount sufficient to reimburse the division for the payment.

(iii) In the event that the amount of state funding next due to be distributed to the school district is not sufficient to reimburse the division, the division shall continue to withhold state funding due to the school district until the division is fully reimbursed.

(iv) If the commissioner determines that payment has been made to the division by the school district and that the obligation of the

school district to the division no longer exists, the division shall not withhold from the school district the distribution of state funding under subdivisions (d)(3)(D)(ii) and (iii) of this section.

(e) As used in subsections (c) and (d) of this section, “state funding” includes without limitation:

- (1) The following state funding under § 6-20-2305:
 - (A) State foundation funding aid;
 - (B) Declining enrollment funding;
 - (C) Student growth funding; and
 - (D) State categorical funding;
 - (2) Isolated funding and additional isolated funding under § 6-20-601 et seq.; and
 - (3) Other funding due to a school district under an appropriation of the General Assembly.
- (f) Holders of bonds of the school district shall have a first and prior right and security interest in the revenue produced by the debt service millage pledged by the school district to the payment of its bonds.
- (g) The State Board of Education may promulgate the rules necessary to administer this section.

History. Acts 1931, No. 169, § 61; Pope’s Dig., § 11494; Acts 1975, No. 220, § 1; A.S.A. 1947, § 80-1104; Acts 1997, No. 1300, § 17; 1997 No. 1329, § 1; 2013, No. 110, § 1; 2019, No. 315, § 285; 2019, No. 910, §§ 1615-1617.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (g).

The 2019 amendment by No. 910 substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (c)(1); substituted “Division of Elementary and Secondary Education” for “Department of Education” in (c)(3); and substituted “division” for “department” throughout (d)(3).

6-20-1205. Submission of statement before issuing bonds — Approval.

(a) When any school district board of directors desires to issue bonds for the purposes described in § 6-20-1201, the school district board of directors:

- (1) Shall furnish to the Commissioner of Elementary and Secondary Education a statement of the amount proposed to be borrowed and of the maturity of the indebtedness, a financial statement of the affairs of the school district, and a certificate from the county clerk showing the then-assessed valuation of the real, personal, and utility property in the school district; and
- (2) Shall not sell bonds until the issue is approved by the State Board of Education or by the commissioner, to be evidenced by a writing signed by the state board or the commissioner and bearing the seal of the state board.

(b) In addition to other reasons for disapproval of a bond issue provided under law or by rule, neither the state board nor the commissioner shall approve the sale of bonds for the purposes described

in § 6-20-1201 if that sale would cause an increase in the millage levy without a vote of the electors of that school district.

(c) The Division of Elementary and Secondary Education is authorized to adopt procedural rules to enforce the provisions of this section.

History. Acts 1931, No. 169, § 62; Pope's Dig. § 11495; A.S.A. 1947, § 80-1105; Acts 1997, No. 1300, § 18; 1999, No. 1046, § 1; 1999, No. 1549, § 22; 2001, No. 1220, § 17; 2003 (2nd Ex. Sess.), No. 28, § 3; 2003 (2nd Ex. Sess.), No. 105, § 4; 2005, No. 2121, § 14; 2019, No. 315, § 286; 2019, No. 910, §§ 1618, 1619.

Amendments. The 2019 amendment by No. 315 substituted "rule" for "regula-

tion" in (b); and deleted "and regulations" following "rules" in (c).

The 2019 amendment by No. 910 substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (a)(1); and substituted "Division of Elementary and Secondary Education" for "Department of Education" in (c).

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2001 Arkansas General As-

sembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

CASE NOTES

Approval.

Commissioner of Education may approve bond issue only when directed to do so by the State Board of Education, and when such approval is not at the direction of the board the approval is not sufficient. *Delaplaine Consol. School Dist. No. 7 v. State Board of Education*, 196 Ark. 434,

118 S.W.2d 255 (1938) (decided under former provisions, now this section and § 6-20-1215).

Cited: *M.W. Elkins & Co. v. Ashby*, 195 Ark. 313, 112 S.W.2d 627 (1938); *Little Rock Sch. Dist. v. Pulaski County Special Sch. Dist. No. 1*, 597 F. Supp. 1220 (E.D. Ark. 1984).

6-20-1206. Manner and terms of sale — Maximum rate of interest.

(a)(1) All school bonds shall be sold to the highest bidder at public sale.

(2)(A)(i) Advertisement of a bond sale under this section shall be published on at least two (2) separate dates in a newspaper that is published in or has a bona fide circulation in the county in which the school district is administered.

(ii) The first publication shall be at least eight (8) days before the date of the sale, with the second publication on any date before the date of the sale.

(B)(i) If the newspaper responsible for publishing the advertisement of a bond sale does not publish either or both of the two (2) publications required under this subsection within the required time frame, the Commissioner of Elementary and Secondary Education may approve an alternate form of advertisement of the bond sale.

(ii) The public school district shall use the alternate form of advertisement only for the bond sale related to the failed publication.

(iii) Within thirty (30) days after the sale of bonds is completed for which an alternate form of advertisement is used by a public school

district under this subdivision (a)(2)(B), the public school district shall provide by one (1) publication in a newspaper published in the county a notice:

(a) Of the date of the sale and the principal amount of the bonds sold; and

(b) That the alternate form of advertisement was used.

(3) At any time after receiving bids on bonds, all bids may be rejected and the bonds readvertised for the time and in the manner provided under subdivision (a)(2) of this section.

(4) The bonds shall bear interest at a rate or rates not exceeding the maximum lawful rate as defined in subsection (b) of this section.

(5) Bonds may be sold at a discount, but in no event shall the school district be required to pay more than the maximum lawful rate of interest on the amount received.

(6) Bonds may be sold with the privilege of conversion into bonds bearing a lower rate or rates of interest, but the school district shall receive no less and pay no more in principal and interest combined than it would receive and pay if the bonds were not converted.

(7) The school district shall pay the expenses of issuing the bonds and may supply the opinion of attorneys approving the validity of the bonds.

(8) No brokerage, agent's fees, or commissions of any kind for securing bids for the sale of school district bonds shall be allowed or paid on any bond sale unless it is approved by the commissioner, and any person giving or receiving it without approval shall be guilty of a Class A misdemeanor.

(b) The State Board of Education may establish a maximum rate of interest at which school bonds may be sold under the conditions stated in subsection (a) of this section:

(1) If the state board establishes a maximum rate of interest under this subsection, bonds issued under this section shall not bear interest at a rate exceeding the maximum rate established by the state board; and

(2) A bond issued under this section may be sold at a discount, but in no event shall a school district be required to pay more than the maximum rate of interest established by the state board.

History. Acts 1931, No. 169, § 63; Pope's Dig., § 11496; Acts 1970 (1st Ex. Sess.), No. 64, § 1; 1980 (1st Ex. Sess.), No. 56, § 1; 1981, No. 812, § 1; 1983, No. 880, § 1; A.S.A. 1947, § 80-1106; Acts 1999, No. 1045, § 1; 2003, No. 210, § 3; 2005, No. 1994, § 197; 2009, No. 1466, § 1; 2015, No. 846, § 22; 2017, No. 935, § 1; 2019, No. 848, § 1.

Amendments. The 2017 amendment

rewrote (a)(2)(A)(i); and, in (a)(2)(A)(ii), substituted "eight (8) days" for "thirteen (13) days" and added "with the second publication on any date before the date of the sale".

The 2019 amendment, in (a)(2)(A)(i), substituted "that is published in or has a bona fide circulation in the county in which the school district is administered" for "published in the county".

CASE NOTES

ANALYSIS

Costs and Fees.
Effect of Noncompliance.
Terms of Sale.

Costs and Fees.

Contract of school district with investment company whereby company was to be paid a fee for preparing the necessary papers for refunding a bonded indebtedness but providing for refund of amount of fee proportionate to bonds not refunded was invalid. *M.W. Elkins & Co. v. Ashby*, 195 Ark. 313, 112 S.W.2d 627 (1938).

Effect of Noncompliance.

Though any person may enforce the provisions of this section, yet where bonds

were issued without compliance therewith and the proceeds are received by the district, it will be estopped to assert its own default as also will be its patrons. *Davis v. White*, 171 Ark. 385, 284 S.W. 764 (1926).

Any method by which a sale may be consummated materially varying from statutory provisions would render the transaction invalid. *M.W. Elkins & Co. v. Ashby*, 195 Ark. 313, 112 S.W.2d 627 (1938).

Terms of Sale.

No school bonds may be sold for less than par based on allowable rate. *Lake-side Special School Dist. v. Gaines*, 202 Ark. 778, 153 S.W.2d 149 (1941).

6-20-1207. Delivery and payment in installments.

Bonds may be sold to be delivered and paid for in installments estimated to be as funds will be needed by the school district; but if sold on such terms, they shall be plainly stated in the advertisement of the sale, so that all bidders may bid on equal terms.

History. Acts 1931, No. 169, § 64;
Pope's Dig., § 11497; A.S.A. 1947, § 80-1107.

6-20-1208. Delivery of bonds upon payment in cash — Registration and recording.

(a) All school bonds sold shall be sold only for cash on the delivery of the bonds.

(b) The delivery of the bonds to the purchaser and the payment of the full amount of cash to the credit of the school district to the order of the county treasurer, or school district treasurer if the school district has its own treasurer, shall be simultaneous, and, in order to do this, some responsible bank or trust company may be designated as an escrow agent through which the bonds are to be delivered and the funds received.

(c)(1) The secretary of each school district shall cause all school bonds to be registered in the office of the county treasurer, or the school district treasurer if the school district has its own treasurer, in a book to be kept for that purpose.

(2) This record shall show the date, the denomination, the maturity in each year, the place of payments, the rate of interest, and the aggregate amount of the issue, together with the amount of cash for which sold.

(d) Such record books shall be open to public inspection.

(e) Any county treasurer, or school district treasurer if the school district has its own treasurer, failing or refusing to comply with any provisions of this act, and the sureties on his or her official bond, shall be liable to the school district and holders of the school district's bonds for any damages caused thereby, to be recovered by civil action.

History. Acts 1931, No. 169, § 70; Pope's Dig., § 11503; A.S.A. 1947, § 80-1108; Acts 1995, No. 233, § 16.

Meaning of "this act". Acts 1931, No. 169, codified as §§ 6-10-101 — 6-10-104, 6-10-107, 6-11-101 — 6-11-105, 6-11-106 [repealed], 6-11-107, 6-11-109 [repealed], 6-11-110, 6-11-111, 6-11-117, 6-12-109 [repealed], 6-12-206 [repealed], 6-13-101 — 6-13-104, 6-13-201 [repealed], 6-13-203 — 6-13-211 [repealed], 6-13-213 [repealed], 6-13-215 [repealed], 6-13-220 [repealed], 6-13-221 [repealed], 6-13-619, 6-13-620, former § 6-13-621 [repealed], 6-14-104 [repealed], 6-14-118, 6-16-101, 6-16-103 — 6-16-105, 6-16-107, 6-16-114 [repealed],

6-17-101 [repealed], 6-17-103 [repealed], 6-17-104, 6-17-105 [repealed], 6-17-401, former 6-17-404 [repealed], 6-17-405 [repealed], 6-18-210 — 6-18-212 [repealed], former 6-18-215 [repealed], 6-18-216 [repealed], 6-18-217, 6-18-218 [repealed], 6-18-219, 6-18-501, 6-18-507, 6-18-701, 6-19-102, 6-20-202 — 6-20-204, 6-20-208 [repealed], 6-20-213 [repealed], 6-20-214 [repealed], 6-20-215 — 6-20-217, 6-20-220 [repealed], 6-20-221, 6-20-222, 6-20-403, 6-20-408 [repealed], 6-20-1201, 6-20-1204 — 6-20-1215, 6-21-101, 6-21-602 [repealed], 6-21-604 — 6-21-606, 6-51-211 — 6-51-215, 26-80-101, 26-80-102, and 26-80-104.

CASE NOTES

Effect of Noncompliance.

Any method by which a sale may be consummated materially varying from statutory provisions would render the

transaction invalid. *M.W. Elkins & Co. v. Ashby*, 195 Ark. 313, 112 S.W.2d 627 (1938).

6-20-1209. Debt service fund — Establishment and purpose.

All school districts in Arkansas proceeding under this act to borrow money and issue bonds, in addition to other security herein authorized, may and are authorized to establish a debt service fund in an amount sufficient to pay the maturities of bond principal and interest, as they accrue, of the issue of bonds, that the debt service fund shall be set aside out of the first revenues of the school district from whatever source derived and shall be held by the county treasurer, or school district treasurer if the school district has its own treasurer, solely in the manner and for the purposes set out throughout this act.

History. Acts 1931, No. 169, § 66; Pope's Dig., § 11499; A.S.A. 1947, § 80-1111; Acts 1995, No. 233, § 17; 2011, No. 989, § 64.

Meaning of "this act". See note to § 6-20-1208.

CASE NOTES

Elections.

When vote at school election was for "General Tax 18 mills" but against "Building Tax," the taxes so raised could not be used for the retirement of bonds or ac-

crued interest since the "building fund" (now "debt service fund") as defined in this section is for such purpose. *Pledger v. Cutrell*, 189 Ark. 562, 74 S.W.2d 646 (1934).

6-20-1210. Debt service fund — Use.

(a) The debt service fund shall not be used for any other purpose in any year than to pay the bonds and interest thereon maturing that year and any that may be past due, until the maturities are paid in full or until the funds are set aside to pay the full amount of the bonds; provided, the surplus in any year over and above the amount necessary to pay bonds and interest maturing that year, whether hereafter or heretofore issued, may be used by the respective school districts for any other school purposes.

(b) The county treasurer, or school district treasurer if the school district has its own treasurer, shall see to it that all warrants on the debt service fund of any school district are drawn only to pay maturities of principal or interest on bonds of this school district, other school purposes as herein provided, or past due interest as shown by the records in his or her office.

(c) It is intended that the provisions of this section are to be cumulative and are not to repeal the provisions of any other act now in force except such laws and parts of laws as may be in conflict herewith.

History. Acts 1931, No. 169, § 67; A.S.A. 1947, §§ 80-1112, 80-1113; Acts 1935, No. 63, §§ 1, 3; Pope's Dig., 1995, No. 233, § 18; 2011, No. 989, § 65. §§ 11500, 11506; Acts 1939, No. 326, § 2;

CASE NOTES**Use of Other Funds.**

This section does not prohibit a school district from contracting for the use of any otherwise permissive revenues in payment of bonds; it only authorizes districts to use for other school purposes any year's surplus over and above the amount necessary to pay bonds and interests maturing that year. Houston Sch. Dist. No. 39 v.

Commercial Nat'l Bank, 199 Ark. 683, 135 S.W.2d 677 (1940).

Pledge to apply to bond purposes all revenues arising from the nine-mill tax was not in derogation of this section. Houston Sch. Dist. No. 39 v. Commercial Nat'l Bank, 199 Ark. 683, 135 S.W.2d 677 (1940).

6-20-1211. Tax records — Separate debt service fund records.

(a) In showing school taxes on the tax books, it shall not be necessary to show separate amounts for the debt service fund or any other fund that may be created by the school district board of directors, but there shall be one (1) amount extended on the tax books showing the total of the school district tax for that year.

(b) However, the county treasurer, or school district treasurer if the school district has its own treasurer, shall keep separate records in his or her office showing separately the debt service fund and shall see to it that on all settlements made with him or her of tax money or state apportionment money, the debt service fund is credited with all funds set apart for debt service by the electors or by the school district board of directors.

History. Acts 1931, No. 169, § 68; 1114; Acts 1995, No. 233, § 19; 2011, No. Pope's Dig., § 11501; A.S.A. 1947, § 80- 989, § 66.

6-20-1212. Resolution setting priority in case of default.

On the issuance of any bonds, the school district board of directors may provide by resolution, which shall be a contract with the holders of the bonds, that should there be a default in the payment of any installment of principal or interest when due, the first moneys coming to the school district from any source, other than the uniform rate of tax, shall be paid into the debt service fund and applied on past due principal or interest on the bonds until paid in full.

History. Acts 1931, No. 169, § 69; 1115; Acts 1997, No. 1300, § 19; 2011, No. Pope's Dig., § 11502; A.S.A. 1947, § 80- 989, § 67.

6-20-1213. Duty to pay on maturity — Effect of failure.

(a) The school district board of directors and the secretary of the board shall see to it that sufficient funds to meet each maturity of principal and interest of all bonds of their school district are in the place of payment not later than the day before the date of maturity.

(b) Any failure thereof shall be cause for the State Board of Education to withhold any apportionment of school funds that would otherwise be apportioned to that school district and apply them on any past due bonds of that school district.

History. Acts 1931, No. 169, § 73; 1116; Acts 1993, No. 294, § 13; 1999, No. Pope's Dig., § 11509; A.S.A. 1947, § 80- 1078, § 80.

6-20-1214. Obligations on district dissolution.

(a) Dissolution of any school district shall not of itself mature any outstanding bonds or other unmatured obligations of the school district, but the school district to which the territory of the dissolved school district is added shall be liable for the bonds and for the levying of a tax to pay them as herein provided for the obligation of school districts when a school district or a part thereof is annexed to another district.

(b) In addition to the remedy of mandamus to enforce performance of the duties of school officers in the payment of bonds, any bondholder or trustee of such issue may apply to the circuit court having jurisdiction of the territory in which the school district is situated for mandatory orders for the collection of money due from the school district on all bonds for the levy and collection of such taxes.

History. Acts 1931, No. 169, § 75; Pope's Dig., § 11511; A.S.A. 1947, § 80- 1117.

6-20-1215. Approval of bond issues.

(a) Before any school district shall issue bonds for the purposes described in § 6-20-1201, the issue shall be approved by the State Board of Education.

(b) If the school district has done everything necessary to comply with the law to authorize it to sell bonds except securing the approval of the state board, and if the state board does not meet for thirty (30) days, then in its discretion, the state board shall have the authority to authorize the Commissioner of Elementary and Secondary Education to approve the issue of bonds.

History. Acts 1931, No. 169, § 77; Pope's Dig., § 11513; Acts 1949, No. 161, § 2; A.S.A. 1947, § 80-1118; Acts 1999, No. 1046, § 2; 2021, No. 544, § 44.

Amendments. The 2021 amendment substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (b).

CASE NOTES**ANALYSIS**

Applicability.
Elections.

Applicability.

This section applies to all bond issues, and approval of State Board of Education is necessary to the validity of any bonds, regardless of the purpose for which issued. Delaplaine Consol. School Dist. No. 7 v. State Board of Education, 196 Ark. 434, 118 S.W.2d 255 (1938).

Elections.

Urban school districts could issue bonds without the consent of a majority of the

legal voters, and where they did so and received the contract price, they were estopped to question the legality of the transaction. Davis v. White, 171 Ark. 385, 284 S.W. 764 (1926) (decision under prior law).

Bonds issued by the directors of a rural special school district without authority of a majority of the electors were void even if in the hands of a bona fide holder for value. Rural Special Sch. Dist. No. 30 v. City of Pine Bluff, 142 Ark. 279, 218 S.W. 661 (1920); Robertson v. Rural Special School Dist. No. 9, 155 Ark. 161, 244 S.W. 15 (1922); Park v. Rural Special School Dist. No. 26, 173 Ark. 892, 293 S.W. 1035 (1927) (decision under prior law).

6-20-1216. Refunding bonds — Authority to use.

(a) Any school district of Arkansas shall have the right, subject to procedural rules adopted by the Division of Elementary and Secondary Education, to refund its bonds outstanding at any time. Any division rule that would prevent or delay a school district from refunding outstanding bonds may be waived by the Commissioner of Elementary and Secondary Education or the commissioner's designee provided that the commissioner or the commissioner's designee determines that it is in the best interest of the school district to proceed with the refunding immediately.

(b) This shall include the right to refund any loan it may at any time have outstanding from the Revolving Loan Fund.

History. Acts 1941, No. 95, § 1; A.S.A. 1947, § 80-1123; Acts 1999, No. 1046, § 3; 2019, No. 315, § 287; 2019, No. 910, § 1620.

Amendments. The 2019 amendment by No. 315, in (a), deleted “and regulations” following “rules” in the first sentence, and deleted “or regulation” following “rule” in the second sentence.

The 2019 amendment by No. 910, in (a), substituted “Division of Elementary and

Secondary Education” for “Department of Education”, “division” for “department”, and “Commissioner of Elementary and Secondary Education” for “Commissioner of Education”.

6-20-1217. [Repealed.]

Publisher’s Notes. This section, concerning refunding bonds and debt cancellation procedures, was repealed by Acts

2015, No. 846, § 23. The section was derived from Acts 1941, No. 95, § 1; A.S.A. 1947, § 80-1123.

6-20-1218. Refunding bonds — Maximum amounts — Conversion and sale.

(a) When the refunding bonds are issued to be exchanged for outstanding bonds, it shall not be necessary to advertise them for sale, but they may be executed and delivered to the Division of Elementary and Secondary Education, and the Commissioner of Elementary and Secondary Education shall, from time to time, as outstanding bonds are presented to him or her for exchange, certify and deliver refunding bonds in face value of the same proportion of the total face value of the refunding bond issue that the face value of the surrendered bonds bears to the total face value of the outstanding bonds to be refunded.

(b)(1) Refunding bonds may be exchanged for outstanding bonds, as provided in this section, or they may be sold for cash and the proceeds used to pay the outstanding bonds, or part of the refunding bonds may be exchanged and part of the refunding bonds may be sold, as the board of directors may deem best for the school district.

(2) In the event that after a school district has exchanged part of a refunding issue that has been converted to a lower interest rate as herein authorized and it becomes necessary or desirable to sell the balance of such a refunding issue to pay the bonds being refunded instead of exchanging them for refunding bonds, the school district may then advertise and sell the balance at the rate of interest to which the issue has been converted.

(c) If the refunding bonds are sold at public sale to refund outstanding bonds that have been called for redemption, they shall be fully executed and delivered to the designated escrow agent who shall have authority to surrender them, on and after the redemption date of the bonds being refunded, to the purchaser upon the deposit with the escrow agent on or before the redemption date of the money necessary for the redemption of the bonds being refunded.

(d)(1) In order to facilitate the refunding of school bonds, any school district issuing refunding bonds may issue certificates of indebtedness maturing in one (1) to five (5) years, payable to bearer and negotiable, to cover the costs of refunding or interest due on outstanding bonds at the time they are exchanged for refunding bonds, or both.

(2) The certificates of indebtedness shall be paid out of the debt service fund of the school district from any surplus that remains in the debt service fund in any years after the payment of the full amount of bonds and interest due that year on the refunding issue.

(3) Any certificates of indebtedness issued in connection with an issue of refunding bonds shall be registered by the county treasurer.

(4) All certificates of indebtedness thus issued and registered shall not be invalidated because at the time of their issuance or at their maturity date there is not a surplus in the debt service fund available for their payment, but they shall continue as valid obligations of the school district until such a surplus in the debt service fund has accumulated for their payment.

History. Acts 1941, No. 95, § 1; A.S.A. 1947, § 80-1123; Acts 2005, No. 2121, § 16; 2011, No. 989, § 68; 2019, No. 910, § 1621.

Amendments. The 2019 amendment

substituted "Division of Elementary and Secondary Education" for "Department of Education" and "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (a).

CASE NOTES

ANALYSIS

Approval of Department of Education.
Combining Bond Issues.

Approval of Department of Education.

The Department of Education was made the final arbiter of the propriety of terms of conversion of school district bonds, and the courts, in the absence of fraud, will not go behind the department's finding. *Wall v. Eudora Special Sch. Dist.*, 202 Ark. 904, 154 S.W.2d 12 (1941) (decision under prior law).

Where Department of Education approved the conversion of school district's bonds through a refunding, and its figures showed a small saving thereby, court, in

suit by taxpayer, would not declare the refunding issue invalid on ground that the conversion would cost the district more than the bonds to be refunded. *Wall v. Eudora Special Sch. Dist.*, 202 Ark. 904, 154 S.W.2d 12 (1941) (decision under prior law).

Combining Bond Issues.

School district having power to issue refunding bonds and also new bonds for repairs and equipment could combine the two issues into one bond issue since it would be a simple matter to designate refunding bonds as such. *Bay Special Consolidated School Dist. No. 21 v. Hall*, 194 Ark. 423, 107 S.W.2d 347 (1937) (decision under prior law).

6-20-1219. Record of bond issues.

In a book prepared for that purpose, the county treasurer, or school district treasurer if the school district has its own treasurer, shall keep in his or her office a full and complete record of all bond issues outstanding at the present time or to be issued hereafter showing the date of the issuance, the amount, the date of maturity, the rate of interest, and the dates and the amounts of payment thereon so that any interested persons may ascertain the true financial status of the school district's bonded indebtedness.

History. Acts 1941, No. 95, § 2; A.S.A. 1947, § 80-1124; Acts 1995, No. 233, § 20.

6-20-1220. Refunding bonds — Issuance with election — Validation.

Refunding bonds issued by any school district of the State of Arkansas, when authorized at any general or special school election by a vote of the electors of the school district for a continuing debt service fund to retire refunding bonds, shall be the valid, legal, and binding obligations of the school district provided that the issuance of the refunding bonds is approved by the State Board of Education or the Commissioner of Elementary and Secondary Education before the issuance of the refunding bonds.

History. Acts 1935, No. 336, § 1; A.S.A. 1947, § 80-1125; Acts 1999, No. 1046, § 4; 2011, No. 989, § 69; 2021, No. 544, § 45.

Amendments. The 2021 amendment

substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education”.

6-20-1221. [Repealed.]

Publisher’s Notes. This section, concerning refunding bonds and certification of surrender, was repealed by Acts 2005,

No. 2121, § 17. The section was derived from Acts 1939, No. 341, § 2; A.S.A. 1947, § 80-1127.

6-20-1222. Sale of school property securing deed of trust — Release of lien.

(a) When any school district of Arkansas desires to abandon any property for school purposes and to sell and convey the property and use the proceeds for either repairs or new construction of buildings for school purposes of the school district, the trustee of the deed of trust securing any bond issue of the school district and including the land so to be abandoned, sold, and conveyed shall have the power, if the trustee deems it to be to the best interest of the school district, to release the land to be sold or conveyed from the lien of the deed of trust by which the trustee is appointed.

(b) The release may be either by endorsement of the trustee, if an individual, or by endorsement by one (1) of the corporate officers of the trustee, if a corporation, on the margin of the record of the deed of trust, or by a separate instrument executed and placed on record in the county in which the land is situated.

History. Acts 1939, No. 341, § 3; A.S.A. 1947, § 80-1128.

6-20-1223. Refunding bonds — Issuance without election.

(a) School districts of this state may issue refunding bonds without the necessity of submitting the question of issuing the refunding bonds

to a vote of the electors of the school district and without the approval of the State Board of Education provided that:

(1) The last maturity date of the refunding bonds is not later than the last maturity date of the bonds being refunded;

(2) The total amount required to pay principal and interest of the refunding bonds as they become due and payable, as well as any issuance costs required to be paid by the school district, exclusive of issuance costs paid from the proceeds of the refunding bonds, must be less than the total amount required to pay principal and interest of the bonds being refunded as they become due and payable; and

(3) The issue has been approved by the Commissioner of Elementary and Secondary Education or the commissioner's designee subject to Division of Elementary and Secondary Education rules.

(b)(1) Refunding bonds, authorized by a resolution of the board of directors of the school district issuing them, may enjoy the same security for their payment as was enjoyed by the bonds refunded thereby, including particularly, and without limitation, any continuing annual debt service fund taxes voted and pledged to the payment of the bonds refunded thereby, except that, in all school districts operating pursuant to federal court desegregation decrees, the refunding bonds may but shall not be required to enjoy the same security for payment as was enjoyed by the bonds refunded.

(2) Except as to the particulars dealt with in this section, refunding bonds shall be governed insofar as their authorization and security are concerned by provisions of existing law.

History. Acts 1965, No. 43, § 1; 1975 (Extended Sess., 1976), No. 1233, § 1; A.S.A. 1947, § 80-1131; reen. Acts 1987, No. 1018, § 1; Acts 1989 (3rd Ex. Sess.), No. 64, § 1; 1999, No. 1046, § 5; 2011, No. 989, § 70; 2019, No. 315, § 288; 2019, No. 910, § 1622.

A.C.R.C. Notes. This section was reenacted by Acts 1987, No. 1018, § 1, because of the Supreme Court's holding in *Ricarte v. State*, 290 Ark. 100, 717 S.W.2d 488 (1986), which questioned the validity of

the extended session of the legislature in 1976.

Amendments. The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (a)(3).

The 2019 amendment by No. 910 substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" and "Division of Elementary and Secondary Education" for "Department of Education" in (a)(3).

6-20-1224. Payment in full — Endorsement and certificate.

When any school district of Arkansas has paid in full all the bonds of any issue secured by an executed deed of trust with a nonresident trustee or with a trustee who since his or her appointment has become unable to serve, it shall be permitted through the school district's secretary to endorse the fact of payment upon the margin of the record of the deed of trust securing the bonds and to this shall be added the certificate of the circuit clerk if the school district can exhibit to him or her all of the paid and cancelled bonds and coupons.

History. Acts 1939, No. 341, § 1; A.S.A. 1947, § 80-1126.

6-20-1225. Certificates of indebtedness.

(a) A school district of Arkansas filing a petition in United States District Court for the composition of its bonded indebtedness and having more than five (5) years' past due interest on bonds being purchased at a discount, in order to facilitate such purchase, shall have the right to issue certificates of indebtedness payable, without interest over a period of five (5) years, from the surplus in the debt service fund and any other available revenue that the school district may pledge, for an amount not to exceed two (2) years' interest on the bonds being purchased and not to exceed two percent (2%) of the assessed valuation of all taxable property in the school district as shown by the last county assessment and may pledge the surplus and available revenue for their payment.

(b) In any case in which a school district has heretofore issued certificates of indebtedness under substantially the conditions outlined in subsection (a) of this section, such action of the school district is approved and confirmed and the certificates of indebtedness so issued are declared to be the binding obligations of that school district, provided their issuance has been ordered or approved by the United States District Court in which the petition for composition of debt was filed.

History. Acts 1943, No. 151, § 1; A.S.A. 1947, § 80-1129; Acts 2011, No. 989, § 71.

6-20-1226. Advancements for bond payments by county treasurer before settlement date.

In all school districts of the State of Arkansas that have voted a bond issue that calls for the payment of interest and principal before the date of settlement by the county treasurer with the school district of funds collected under a levy made by the school district for the purpose of retiring principal and interest of bond issue, the county treasurer is authorized to advance to the school district before the date of settlement and on the date payment is due a sum sufficient for the payment of principal and interest accruing under the bond issue out of the moneys held by him or her for the school district.

History. Acts 1951, No. 388, § 1; A.S.A. 1947, § 80-1130.

6-20-1227. [Repealed.]

Publisher's Notes. This section, concerning issuance of bonds for funding non-bonded indebtedness, was repealed by

Acts 2015, No. 846, § 24. The section was derived from Acts 1968 (1st Ex. Sess.), No. 67, § 5; A.S.A. 1947, § 80-1132.

6-20-1228. Issuance of bonds — Refunding of bonded indebtedness — Maintenance and operation of schools.

(a)(1) Any school district of this state is authorized to sell bonds in an amount not to exceed an amount equal to the principal amount of the bonds refunded as originally issued for the purposes of refunding all or any part of its bonded indebtedness outstanding at the time of passage of this act, and of providing funds for maintaining and operating schools in the school district.

(2) Such bonds may be sold with the privilege of conversion as provided in this subchapter.

(b) Issuance of the bonds shall be subject to the approval of the State Board of Education and to the approval by the electors of the school district of a continuing annual tax for retirement of the bonds.

History. Acts 1991, No. 689, § 1; 1993, No. 481, § 1.

Publisher's Notes. In reference to the term "time of passage of this act," Acts

1991, No. 689, was signed by the Governor on March 21, 1991, and became effective July 15, 1991.

6-20-1229. Issuance of second-lien commercial bonds — Definitions.

(a) As used in this section:

(1) "Issue", "issuance", or some variety thereof means the date upon which a second-lien bond is actually sold; and

(2) "Second-lien bond" means a commercial bond issued under the authority set forth in § 26-80-106.

(b) All second-lien bonds issued by school districts shall have semi-annual interest payments.

History. Acts 2001, No. 1220, § 18; 2005, No. 2121, § 15; 2017, No. 935, § 2.

Amendments. The 2017 amendment deleted "with the first interest payment due within eight (8) months of the issu-

ance of the second-lien bond. All second-lien bonds shall be repaid on payment schedules that are either:" from the end of (b); and deleted (b)(1) and (b)(2).

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2001 Arkansas General As-

sembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

SUBCHAPTER 13 — ANNUAL REPORTS OF EXPENDITURES

[Repealed.]

SECTION.

6-20-1301 — 6-20-1304. [Repealed.]

6-20-1301 — 6-20-1304. [Repealed.]

Publisher’s Notes. This subchapter, concerning annual reports of expenditures, was repealed by Acts 1999, No. 100, § 12. The subchapter was derived from the following sources:

6-20-1301. Acts 1983 (1st Ex. Sess.), No. 9, § 4; A.S.A. 1947, § 80-483.

6-20-1302. Acts 1983 (1st Ex. Sess.), No. 9, § 1; A.S.A. 1947, § 80-480.

6-20-1303. Acts 1983 (1st Ex. Sess.), No. 9, § 2; A.S.A. 1947, § 80-481.

6-20-1304. Acts 1983 (1st Ex. Sess.), No. 9, § 3; A.S.A. 1947, § 80-482.

SUBCHAPTER 14 — STATE AID FOR CONSTRUCTION

SECTION.

6-20-1401. Rules.

6-20-1402. [Repealed.]

6-20-1403 — 6-20-1405. [Repealed.]

SECTION.

6-20-1406. [Repealed.]

6-20-1407. Approval of building plans.

6-20-1408. [Repealed.]

Effective Dates. Acts 2005, No. 1426, § 7: Mar. 30, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has determined that current public school academic facilities in Arkansas are inadequate and inequitable; that the General Assembly established the Joint Committee on Educational Facilities to inventory the current condition of public school academic facilities and recommend methods for bringing those facilities into conformity with the court’s constitutional expectations; that the programs established in this act are derived from recommendations of the joint committee and are part of a comprehensive state program for overseeing the provision of constitutionally appropriate public school academic facilities across the state; and that this program must be implemented immediately for the good of public school students in the State of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If

the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-20-1401. Rules.

The Commission for Arkansas Public School Academic Facilities and Transportation may make rules consistent with this subchapter that

the commission determines are necessary to accomplish the purposes of this subchapter.

History. Acts 1949, No. 230, § 8; A.S.A. 1947, § 80-3508; Acts 2009, No. 1473, § 8.

6-20-1402. [Repealed.]

Publisher's Notes. This section, concerning authority to borrow money, was repealed by Acts 2005, No. 1426, § 2. The

section was derived from Acts 1949, No. 230, § 4; A.S.A. 1947, § 80-3504.

6-20-1403 — 6-20-1405. [Repealed.]

Publisher's Notes. These sections, concerning the authority to spend from the Public School Fund, the determination of aid amount, and eligibility, were repealed by Acts 1993, No. 294, § 13. The sections were derived from the following sources:

6-20-1403. Acts 1949, No. 230, § 1; A.S.A. 1947, § 80-3501.

6-20-1404. Acts 1949, No. 230, § 2; A.S.A. 1947, § 80-3502.

6-20-1405. Acts 1949, No. 230, § 3; A.S.A. 1947, § 80-3503.

6-20-1406. [Repealed.]

Publisher's Notes. This section, concerning standards for school construction, was repealed by Acts 2007, No. 989, § 1.

The section was derived from Acts 1949, No. 230, § 5; A.S.A. 1947, § 80-3505; Acts 1997, No. 1226, § 1; 2005, No. 1426, § 3.

6-20-1407. Approval of building plans.

(a) As used in this section:

(1) "Public school facility" has the same meaning as defined in § 6-21-803 of the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.; and

(2) "Self-funded project" is a project that is one hundred percent (100%) raised and funded by the school district.

(b) No public school facility shall be built, added to, or renovated except in accordance with the plan finally approved by the Commission for Arkansas Public School Academic Facilities and Transportation for all projects in which the commission requires its approval.

(c) A copy of approved plans and specifications of all new public school facilities, additions, or renovations shall be filed with and approved by the commission before construction shall be commenced.

(d) The approval process established by the commission shall include review and approval by all appropriate and applicable state agencies, boards, and local officials necessary to meet the standard contained in the Arkansas Public School Academic Facility Manual.

(e)(1) For new public school facilities, a copy of final construction documents shall be submitted to the Design Review Section for review in regard to compliance with the Arkansas-adopted Americans with Disabilities Act Accessibility Guidelines, 42 U.S.C. § 12101 et seq.

(2) All review comments received from the Building Authority Division shall be in writing.

(3) Corrected construction documents shall be received and approved by the division.

(4) No new public school facilities project shall be released for bidding or construction until the requirements of this subsection are met.

(f)(1) For additions or renovations, a copy of final construction documents shall be submitted to the State Fire Marshal Enforcement Section for review in regard to compliance with the Arkansas-adopted Americans with Disabilities Act Accessibility Guidelines, 42 U.S.C. § 12101 et seq.

(2) All review comments received from the State Fire Marshal Enforcement Section shall be in writing.

(3) Corrected construction documents shall be received and approved by the State Fire Marshal Enforcement Section.

(4) No additions or renovation project shall be released for bidding or construction until the requirements of this subsection are met.

(g) Review and approval of plans under this section or otherwise shall not be a guarantee of state financial participation in any public school academic facilities project.

(h)(1) The commission shall approve a self-funded project that complies with state codes and standards.

(2) A school district may submit a self-funded project in the form of an appendix to the existing school district master plan at any time.

History. Acts 1949, No. 230, § 6; A.S.A. 1947, § 80-3506; Acts 1997, No. 1226, § 2; 2005, No. 1426, § 4; 2007, No. 989, § 2; 2009, No. 376, § 41; 2011, No. 1006, § 3; 2019, No. 910, § 6053.

Amendments. The 2019 amendment deleted “of the Department of Finance and Administration” following “Building Authority Division” throughout (e).

CASE NOTES

Cited: Lavender v. City of Rogers, 232 Ark. 673, 339 S.W.2d 598 (1960) (see also Lavender v. City of Rogers, 233 Ark. 161,

343 S.W.2d 103 (1961)); Little Rock Sch. Dist. v. Pulaski County Special Sch. Dist. No. 1, 597 F. Supp. 1220 (E.D. Ark. 1984).

6-20-1408. [Repealed.]

Publisher’s Notes. This section, concerning aid from the School Building Fund, and the filing of an application therefor, was repealed by Acts 1993, No.

294, § 13. The section was derived from Acts 1949, No. 230, § 7; A.S.A. 1947, § 80-3507.

SUBCHAPTER 15 — PUBLIC ELEMENTARY AND SECONDARY SCHOOL INSURANCE ACT

SECTION.

- 6-20-1501. Title.
 6-20-1502. Establishment of insurance system.
 6-20-1503. State Insurance Department — Powers and duties regarding insurance for public elementary and secondary schools.
 6-20-1504. [Repealed.]
 6-20-1505. Information to be furnished.
 6-20-1506. Finding of uninsurability — Effect.

SECTION.

- 6-20-1507. Premium rate and payment.
 6-20-1508. Appraisal and payment of losses.
 6-20-1509. Effect of federal assistance.
 6-20-1510. [Repealed.]
 6-20-1511. Permanent Insurance Reserve Fund.
 6-20-1512. Disposition of funds.
 6-20-1513. Bond obligations.
 6-20-1514. Investments.
 6-20-1515. Annual reports.

A.C.R.C. Notes. Acts 2003 (2nd Ex. Sess.), No. 78, § 1, provided: "Purpose.

"(a) The purpose of this act is to provide for the administration and regulation of the Public Elementary and Secondary School Insurance Program and the School Motor Vehicle Insurance Program by the State Insurance Department and to amend various provisions of Arkansas Code §§ 6-20-1501 to 6-20-1515 and §§ 6-21-701 to 6-21-711. The responsibilities of the Department of Education for the regulation and administration of the Public Elementary and Secondary School Self-Insurance Program and the School Motor Vehicle Self-Insurance Program shall cease and its responsibilities shall be transferred to the State Insurance Department. The programs shall be known as the Public Elementary and Secondary School Insurance Program and the Public School Motor Vehicle Insurance Program.

"(b) The statutory authority, powers, duties, functions, including budgeting and purchasing, records, property, unexpended balances of appropriations, allocations, or other funds, and authorized positions but not the personnel of the Public Elementary and Secondary School Self-Insurance Program and the School Motor Vehicle Self-Insurance Program are transferred to the department. The transfer shall include each program's prescribed powers, duties, and functions, including but not limited to rulemaking, regulation, and licensing; and the rendering of findings, orders and adjudications.

"(c) All forms for the administration and regulation of the programs, all trust

agreements and arrangements, and all documents presently in use which have been previously approved by the Department of Education or the State Board of Education shall continue to be approved until otherwise determined by the Insurance Commissioner.

"(d) The Insurance Services Division of the Department of Education is transferred to the State Insurance Department by a type two (2) transfer under § 25-2-105. The transfer shall include the authorized positions but shall not include the personnel of the division."

Cross References. Insurance Code, § 23-60-101 et seq.

Effective Dates. Acts 1973, No. 380, § 17: approved Mar. 16, 1973. Emergency clause provided: "The General Assembly declares and finds that the establishment of a self-insurance program for losses against fire for all buildings and the contents thereof of Arkansas Public School Districts is in the best interests of the State. An emergency is therefore declared to exist and this Act shall take effect immediately upon passage."

Acts 2003 (2nd Ex. Sess.), No. 78, § 26: Feb. 6, 2004. Emergency clause provided: "It is hereby found and determined by the General Assembly that assistance is necessary to minimize public school insurance costs; that the administration of public school insurance programs by the State Insurance Department will permit the Department of Education to concentrate its efforts and resources on improving public education; that this subchapter is de-

signed to provide property and automobile liability and physical damage coverage for state public schools, educational cooperatives, and open-enrollment charter schools participating in the programs as economically as possible; and that this act should be effective immediately. Therefore, an emergency is declared to exist and this act being necessary for the immediate preservation of the public peace, health,

and safety, shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-20-1501. Title.

This subchapter shall be known as the "Public Elementary and Secondary School Insurance Act".

History. Acts 1973, No. 380, § 1; A.S.A. 1947, § 80-3509; Acts 2003 (2nd Ex. Sess.), No. 78, § 2.

6-20-1502. Establishment of insurance system.

The purpose of this subchapter is to establish and maintain a system of insurance for the public elementary and secondary schools, education service cooperatives, and open-enrollment public charter schools of Arkansas.

History. Acts 1973, No. 380, § 5; A.S.A. 1947, § 80-3513; Acts 2003 (2nd Ex. Sess.), No. 78, § 3.

6-20-1503. State Insurance Department — Powers and duties regarding insurance for public elementary and secondary schools.

It shall be the power and duty of the State Insurance Department to:

(1) Adopt such rules as may be necessary to provide for the insuring of public elementary and secondary school, education service cooperative, and open-enrollment public charter school property within the State of Arkansas;

(2) Administer the Public School Insurance Trust Fund;

(3) Delegate responsibilities in connection with the administration of this subchapter to the Director of the Risk Management Division and the staff of the department;

(4)(A) Establish and administer a program of insurance to cover buildings and contents of public school districts, education service cooperatives, and open-enrollment public charter schools of this state that have elected to participate in a multischool insurance program.

(B) The programs shall be in accordance with recognized and established insurance practices;

(5) Establish, and from time to time modify, the premium rates to be charged for the various risks;

(6) Specify the form for insurance policies and other forms required for the purposes of this subchapter;

(7)(A) Purchase insurance in compliance with all state purchasing laws from insurance companies authorized to do business in this state in keeping with recognized principles of good risk management.

(B) The director shall prescribe, from time to time, rules for placing and handling the insurance;

(8) Employ necessary adjusters, engineers, appraisers, and other personnel required in the administration of this subchapter;

(9) Engage in a program of prevention loss control to assist the various public schools in improving and minimizing potential insurance losses;

(10) Perform all additional powers and duties necessary to maintain sound insurance underwriting practices recognized by good risk management;

(11) Periodically review the status of the fund and the adequacy of insurance premium rates and compare these rates with rates for comparable risks for private insurance companies;

(12) Confer with superintendents and boards of directors of school districts, the governing boards of education service cooperatives, and open-enrollment public charter schools concerning insurance practices of the various school districts, education service cooperatives, and open-enrollment public charter schools;

(13) Promulgate rules for the administration of the state public school insurance program; and

(14) Perform other duties that will expedite the operation of the Public Elementary and Secondary School Insurance Program.

History. Acts 1973, No. 380, §§ 3, 5, 6; A.S.A. 1947, §§ 80-3511, 80-3513, 80-3514; Acts 2003 (2nd Ex. Sess.), No. 78, § 4; 2007, No. 617, § 15; 2007, No. 738, § 1; 2019, No. 315, § 289.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (1).

Cross References. Public School Insurance Trust Fund, § 19-5-1134.

6-20-1504. [Repealed.]

Publisher's Notes. This section, concerning the School Self-Insurance Advisory Committee, was repealed by Acts 2003 (2nd Ex. Sess.), No. 78, § 5. The

section was derived from Acts 1973, No. 380, § 4; A.S.A. 1947, § 80-3512; Acts 1997, No. 250, § 17; 1999, No. 391, § 20; 2001, No. 1288, § 1.

6-20-1505. Information to be furnished.

(a) The Director of the Risk Management Division of the State Insurance Department, with the approval of the Insurance Commissioner, shall require school district superintendents, county school supervisors, clerks, or governing boards of the education service cooperatives or open-enrollment public charter schools to furnish the State

Insurance Department a complete list showing the location of every school building sixty (60) days before entering the program and upon written request by the department.

(b) The department shall have authority to require each school district, education service cooperative, or open-enrollment public charter school to furnish a complete report of its insurance program, including the expiration dates of its contracts, a history of losses, or any additional information required by the insurer.

History. Acts 1973, No. 380, § 7; A.S.A. 1947, § 80-3515; Acts 2003 (2nd Ex. Sess.), No. 78, § 6; 2007, No. 617, § 16.

6-20-1506. Finding of uninsurability — Effect.

(a)(1) The State Insurance Department is authorized to maintain an inspection and engineering service and a training program designed to reduce the hazards in public school buildings insured under this program.

(2) The department shall have authority to cancel or not renew insurance on any school property if the property is deemed no longer insurable.

(3) The department may refuse to insure property when it determines that the property does not meet program guidelines.

(b) In carrying out its duties pursuant to this section, the department may request and the affected school district shall provide any information requested for a determination concerning the reasons for the denial, nonrenewal, or cancellation of insurance coverage.

History. Acts 1973, No. 380, § 8; A.S.A. 1947, § 80-3516; Acts 2003 (2nd Ex. Sess.), No. 78, § 7.

6-20-1507. Premium rate and payment.

(a) The premium rate shall be actuarially sound.

(b) School districts, education service cooperatives, or open-enrollment public charter schools shall make payment of premium when demand is made as scheduled in the contract.

(c)(1) Any school district, education service cooperative, or open-enrollment public charter school which does not pay the premium when due shall be charged a rate of interest at five percent (5%) per annum on all payments due and unpaid on the policy issued.

(2) The State Insurance Department may cancel insurance coverage for school districts, education service cooperatives, or open-enrollment public charter schools that fail to pay the premium due within thirty (30) days.

(3) The department shall give thirty (30) days' notice before any cancellation for nonpayment.

(d) Rules of the department shall include such items as payment of premiums and other pertinent items with reference to the premium

rate, but the rules shall not be more stringent than practices of commercial companies writing similar insurance in Arkansas.

(e) Premiums collected by the Public Elementary and Secondary School Insurance Program shall continue to be subject to any premium tax now or hereafter levied for the support of the firemen's pension and relief fund.

History. Acts 1973, No. 380, § 9; A.S.A. 1947, § 80-3517; Acts 2003 (2nd Ex. Sess.), No. 78, § 8; 2007, No. 617, § 17; 2019, No. 315, § 290.

Amendments. The 2019 amendment deleted "and regulations" following "rules" twice in (d).

6-20-1508. Appraisal and payment of losses.

(a) In the event of loss of school district, education service cooperative, or open-enrollment public charter school property under the Public Elementary and Secondary School Insurance Program, the Public School Insurance Trust Fund shall pay the loss as specified in the contract.

(b) When an agreement as to the extent of loss or damage cannot be reached between the State Insurance Department and officials having charge of the property, the amount of the loss or damage shall be determined by three (3) appraisers, one (1) to be named by the department, one (1) by the school district, education service cooperative, or open-enrollment public charter school governing board, and a third to be selected by the two (2) appointed appraisers, all of whom shall be disinterested persons and qualified from experience to appraise and value such property.

(c) If a third appraiser is not agreed upon within thirty (30) days, the Insurance Commissioner shall have authority to appoint a third appraiser.

(d) It shall be the duty of the department to coordinate, facilitate, and expedite details in connection with responsibilities outlined in this section.

(e) The department is granted authority to contract for services with licensed real estate brokers in order to expedite and facilitate the proper operation of the program.

History. Acts 1973, No. 380, § 10; A.S.A. 1947, § 80-3518; Acts 2003 (2nd Ex. Sess.), No. 78, § 9; 2007, No. 617, § 18; 2007, No. 738, § 2.

Cross References. Public School Insurance Trust Fund, § 19-5-1134.

6-20-1509. Effect of federal assistance.

Any school district, education service cooperative, or open-enrollment public charter school that may receive financial assistance from the United States Government as a result of federal legislation pertaining to disasters shall not be adversely affected as a result of any moneys due from the Public School Insurance Trust Fund because of coverage by the Public Elementary and Secondary School Insurance Program.

History. Acts 1973, No. 380, § 12; Ex. Sess.), No. 78, § 10; 2007, No. 617, A.S.A. 1947, § 80-3520; Acts 2003 (2nd § 19; 2007, No. 738, § 3.

6-20-1510. [Repealed.]

Publisher's Notes. This section, concerning the Public Elementary and Secondary School Insurance Fund, was repealed by Acts 2007, No. 738, § 4. The

section was derived from Acts 1973, No. 380, § 2; A.S.A. 1947, § 80-3510.

Cross References. Public School Insurance Trust Fund, § 19-5-1134.

6-20-1511. Permanent Insurance Reserve Fund.

The General Assembly shall provide a Permanent Insurance Reserve Fund of not less than two million dollars (\$2,000,000) on a loan basis for the purpose of initiating the Public Elementary and Secondary School Insurance Program.

History. Acts 1973, No. 380, § 13; A.S.A. 1947, § 80-3521.

6-20-1512. Disposition of funds.

All funds received by the State Insurance Department as premiums, adjustments, earnings, and the like, as provided in this subchapter, shall be deposited into the Public School Insurance Trust Fund and used for the following purposes, listed in a descending order of priority:

- (1) To defray administrative costs;
- (2) To pay claims; and
- (3) To maintain the Public School Insurance Trust Fund.

History. Acts 1973, No. 380, § 13; Ex. Sess.), No. 78, § 11; 2007, No. 738, A.S.A. 1947, § 80-3521; Acts 2003 (2nd § 13.

6-20-1513. Bond obligations.

(a) The State Insurance Department is authorized and directed to meet legal requirements with reference to coverage on buildings as a result of school district, education service cooperative, or open-enrollment public charter school bond obligations.

(b) The specific intent of this section is to ensure that policies issued by the Public Elementary and Secondary School Insurance Program include provisions required by existing school district bond contracts.

History. Acts 1973, No. 380, § 14; Ex. Sess.), No. 78, § 12; 2007, No. 617, A.S.A. 1947, § 80-3522; Acts 2003 (2nd § 20.

6-20-1514. Investments.

(a) The State Insurance Department is authorized to invest funds of the Public Elementary and Secondary School Insurance Program.

(b) Funds of the program may be invested and reinvested as the Insurance Commissioner may determine.

(c) Moneys invested and interest earned thereon shall be administered as program funds.

(d) Moneys deposited to the program shall not be subject to any deduction, tax, levy, or any other type of assessment.

History. Acts 1973, No. 380, § 15; A.S.A. 1947, § 80-3523; Acts 2003 (2nd Ex. Sess.), No. 78, § 13.

6-20-1515. Annual reports.

The State Insurance Department shall report annually to the Governor and the General Assembly on the status of the Public Elementary and Secondary School Insurance Program. The report shall include a detailed statement of investments and earnings.

History. Acts 1973, No. 380, § 11; A.S.A. 1947, § 80-3519; Acts 2003 (2nd Ex. Sess.), No. 78, § 14.

SUBCHAPTER 16 — STATE ASSISTANCE TO SCHOOL DISTRICTS IN DISTRESS **[Repealed.]**

SECTION.

6-20-1601 — 6-20-1610. [Repealed.]

6-20-1601 — 6-20-1610. [Repealed.]

Publisher's Notes. This subchapter, concerning state assistance to school districts in distress, was repealed by Acts 2003, No. 1467, § 22. The subchapter was derived from the following sources:

6-20-1601. Acts 1995, No. 915, § 1.
6-20-1602. Acts 1995, No. 915, § 3;
1999, No. 1549, § 23.
6-20-1603. Acts 1995, No. 915, § 4.
6-20-1604. Acts 1995, No. 915, § 2.

6-20-1605. Acts 1995, No. 915, § 5.
6-20-1606. Acts 1995, No. 915, § 5.
6-20-1607. Acts 1995, No. 915, § 6;
1997, No. 417, § 1.
6-20-1608. Acts 1995, No. 915, § 5.
6-20-1609. Acts 1995, No. 915, § 7;
1999, No. 1078, § 81; 1999, No. 1318, § 3.
6-20-1610. Acts 1995, No. 915, §§ 8, 9.
For current law, see § 6-20-1901 et seq.

SUBCHAPTER 17 — HIGH COST TRANSPORTATION FUNDING FORMULA ACT **[Repealed.]**

SECTION.

6-20-1701 — 6-20-1716. [Repealed.]

6-20-1701 — 6-20-1716. [Repealed.]

Publisher's Notes. This subchapter, concerning the High Cost Transportation Funding Formula Act, was repealed by Acts 2005, No. 2138, § 8. The subchapter was derived from the following sources:

6-20-1701. Acts 1997, No. 1133, § 3.
6-20-1702. Acts 1997, No. 1133, § 3;
2001, No. 1220, § 19.
6-20-1703. Acts 1997, No. 1133, § 3;
1999, No. 373, § 1.

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| 6-20-1704. Acts 1997, No. 1133, § 3;
1999, No. 373, § 2. | 6-20-1711. Acts 1997, No. 1133, § 3. |
| 6-20-1705. Acts 1997, No. 1133, § 3. | 6-20-1712. Acts 1997, No. 1133, § 3. |
| 6-20-1706. Acts 1997, No. 1133, § 3. | 6-20-1713. Acts 1997, No. 1133, § 3. |
| 6-20-1707. Acts 1997, No. 1133, § 3;
1999, No. 373, § 3. | 6-20-1714. Acts 1997, No. 1133, § 3;
1999, No. 373, § 4. |
| 6-20-1708. Acts 1997, No. 1133, § 3. | 6-20-1715. Acts 1997, No. 1133, § 3;
1999, No. 373, § 5. |
| 6-20-1709. Acts 1997, No. 1133, § 3. | 6-20-1716. Acts 1997, No. 1133, § 3;
1999, No. 373, § 6. |
| 6-20-1710. Acts 1997, No. 1133, § 3. | |

SUBCHAPTER 18 — AUDITS

SECTION.

- 6-20-1801. Filing of audit reports.
6-20-1802. Fiscal distress for failure to file.
6-20-1803. Questionable audit reports.
6-20-1804. List of ineligible accountants.

SECTION.

- 6-20-1805. Training requirements for bookkeepers.
6-20-1806. Services outside the scope of practice of auditors — Prohibited activities.

Effective Dates. Acts 1999, No. 1563, § 8: June 15, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that the proper accounting and auditing of school districts is of vital importance to the citizens and tax-payers of the State of Arkansas, that timely filing of audit reports is necessary to determine the proper accounting of school funds, and that audit reports are performed in accordance with professional standards and state laws and regulations. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on June 15, 1999."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General As-

sembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-20-1801. Filing of audit reports.

(a)(1) Unless a shorter period is prescribed by law or rule, all school districts' annual audits not conducted by Arkansas Legislative Audit shall be completed and filed with the Division of Elementary and Secondary Education and Arkansas Legislative Audit within nine (9) months following the end of each fiscal year.

(2) At the request of the school district, the division may grant an extension of up to ninety (90) days on the deadline under this subsection.

(b)(1) All school district contracts for audit services with private certified public accountants shall contain a provision requiring completion of the audit and filing of the audit reports by the auditor with the division and Arkansas Legislative Audit within nine (9) months following the end of each fiscal year.

(2) At the request of the school district, the division may grant an extension of up to ninety (90) days on the deadline under this subsection.

(c) Arkansas Legislative Audit shall annually provide the division a list of school districts audited by Arkansas Legislative Audit and update the division on any changes throughout the year.

(d)(1) If the division has identified a school as being in fiscal distress by June 30 of any year, the annual audit of that school district shall be completed and filed with the division and the Legislative Joint Auditing Committee within six (6) months following the end of each fiscal year.

(2) If the Legislative Joint Auditing Committee determines that circumstances warrant, the Legislative Joint Auditing Committee may extend the time to file the audit report of a fiscally distressed school district up to an additional ninety (90) days.

History. Acts 1999, No. 1563, § 1; 2003 (2nd Ex. Sess.), No. 40, § 1; Acts 2003 (2nd Ex. Sess.), No. 63, § 1; 2019, No. 315, § 291; 2019, No. 910, § 1623.

A.C.R.C. Notes. Prior to the 2003 (2nd Ex. Sess.) amendment, the end of subdivision (b)(1) read, “following the end of each June 30 fiscal year.” The words “June 30” were neither set out nor specifically deleted in the 2003 (2nd Ex. Sess.) amendment.

Amendments. The 2019 amendment by No. 315 substituted “rule” for “regulation” in (a)(1).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a)(1); and substituted “Division of Elementary and Secondary Education” for “department” in (a)(2) and throughout (b) through (d).

6-20-1802. Fiscal distress for failure to file.

(a) Any school district failing to file an audit report required by § 6-20-1801 within the nine-month time period or within the time period under any extension granted by the Division of Elementary and Secondary Education shall automatically be considered by the division to be in fiscal distress.

(b) By January 31 of each year, the division, by certified mail, shall notify any school district failing to file the required audit report that the school district is considered in fiscal distress.

History. Acts 1999, No. 1563, § 2; Acts 2003 (2nd Ex. Sess.), No. 63, § 2; 2019, No. 910, § 1624.

Amendments. The 2019 amendment

substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a); and substituted “division” for “department” in (a) and (b).

6-20-1803. Questionable audit reports.

(a) If the Division of Elementary and Secondary Education or the Legislative Joint Auditing Committee is concerned that a particular audit may be substandard or seriously questionable with respect to applicable professional auditing standards, the division or the Legislative Joint Auditing Committee may file a complaint on the audit report to the Arkansas State Board of Public Accountancy.

(b) The board shall review all audit reports and working papers filed with the board under this subchapter. The board shall determine whether the report is in general conformity with applicable professional standards and state laws and rules and shall take appropriate action.

History. Acts 1999, No. 1563, § 3; 2019, No. 315, § 292; 2019, No. 910, § 1625.

Amendments. The 2019 amendment by No. 315 substituted "rules" for "regulations" in (b).

The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" and "division" for "department" in (a).

6-20-1804. List of ineligible accountants.

(a) The Division of Elementary and Secondary Education shall maintain a list of accountants or accounting firms ineligible to conduct school district audits. Accountants or accounting firms placed on the ineligibility list by the division shall be ineligible to conduct school audits for a period determined by the division but which shall not exceed a five-year period from the end of the fiscal year for which the audit report was contracted to be prepared.

(b) Before entering into contracts for audit services, school districts shall inquire with the division which accountants are ineligible to conduct public school audits.

(c) The division may place accountants or accounting firms on the ineligibility list for any of the following reasons:

(1) If, in the opinion of the division or the Legislative Joint Auditing Committee, a school district audit report is not filed within the nine-month time period or within the time period under any extension granted by the division with the division and Arkansas Legislative Audit as required by § 6-20-1801 because of neglect or fault of the certified public accountant or accounting firm;

(2) If the Quality Review Committee of the Arkansas State Board of Public Accountancy reports to the division and the Legislative Joint Auditing Committee that a school district audit report shows evidence of lack of general conformity with applicable professional standards or state laws and rules or evidence that the report is substandard or seriously questionable; or

(3) Any other compelling reason that the division believes justifies placing the accountant or accounting firm on the ineligibility list.

History. Acts 1999, No. 1563, § 4; Acts 2003 (2nd Ex. Sess.), No. 63, § 3; 2019, No. 315, § 293; 2019, No. 910, § 1626.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in (c)(2).

The 2019 amendment by No. 910 substituted “Division of Elementary and Sec-

ondary Education” for “Department of Education” in (a); and substituted “Division of Elementary and Secondary Education” for “department” in (a) twice, in (b), and throughout (c).

6-20-1805. Training requirements for bookkeepers.

(a) The State Board of Education shall establish by rules appropriate training and continuing education requirements for individuals whose job responsibilities include preparing a budget or classifying, recording, or reporting receipts or expenditures of a school or school district.

(b) The state board shall establish rules to assure the proficiency of school employees or other individuals to properly classify, record, and report the fiscal transactions of schools or school districts.

(c) If the state board determines that a school or school district is not properly recording or reporting the fiscal transactions or budget of the school district, the superintendent and school district board of directors may be required to appear before the state board to explain why the school or school district has not complied with the fiscal recording and reporting requirements.

History. Acts 2003 (2nd Ex. Sess.), No. 40, § 2; 2019, No. 315, § 294.

Amendments. The 2019 amendment

deleted “or regulations” following “rules” in (a) and (b).

6-20-1806. Services outside the scope of practice of auditors — Prohibited activities.

A licensed certified public accountant or a licensed accountant in public practice shall not provide the following nonaudit services to a school district, education service cooperative, or open-enrollment public charter school if the licensed certified public accountant or the licensed accountant or his or her firm is also the auditor of the school district, education service cooperative, or open-enrollment public charter school:

- (1) Accounting and bookkeeping services;
- (2) Financial information systems design and implementation;
- (3) Appraisal, valuation, and actuarial services;
- (4) Internal audit outsourcing services;
- (5) Management or human resources functions;
- (6) Broker or dealer, investment advisor, or investment banking services; and
- (7) Legal and expert services unrelated to the audit.

History. Acts 2005, No. 1244, § 1; 2007, No. 617, § 21.

SUBCHAPTER 19 — ARKANSAS FISCAL ASSESSMENT AND ACCOUNTABILITY PROGRAM

SECTION.

- 6-20-1901. Title.
- 6-20-1902. Purpose.
- 6-20-1903. Definitions.
- 6-20-1904. Indicators of fiscal distress.
- 6-20-1905. Notification and appeal.
- 6-20-1906. Classification of fiscal distress status.
- 6-20-1907. Debt issuance.
- 6-20-1908. Fiscal distress plan.
- 6-20-1909. Division fiscal distress actions.

SECTION.

- 6-20-1910. State board actions.
- 6-20-1911. Rules.
- 6-20-1912. Fiscal support and monitoring.
- 6-20-1913. General business manager — Definition.
- 6-20-1914. Review of financial management practices.

Effective Dates. Acts 2003, No. 1467, § 23: July 1, 2003. Effective date clause provided: "Unless otherwise provided in this act, this act shall become effective on July 1, 2003."

Acts 2007, No. 741, § 3: Mar. 30, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that school districts begin their work far in advance of the academic year; that the coming academic year begins in August, 2007; that the school districts require certainty about the effect on the fiscal health of the school district that might arise from capital outlay for academic facility; and that this act is necessary because any delay might irreparably harm a school district and its students. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure

that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2013, No. 600, § 24: Apr. 4, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that state oversight and intervention into distressed school districts is critical to the delivery of a constitutionally adequate education; and that the changes made in this act are immediately necessary for the state to meet this constitutional obligation. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during

which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded

sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-20-1901. Title.

This subchapter shall be known as and may be cited as the "Arkansas Fiscal Assessment and Accountability Program".

History. Acts 2003, No. 1467, § 18.

6-20-1902. Purpose.

The purpose of this subchapter shall be to improve Arkansas public school districts' financial practices and use of resources by establishing a:

(1) System by which the Division of Elementary and Secondary Education shall review the financial management practices of public school districts, including without limitation identifying best financial management practices;

(2) Program by which the division shall identify, assess, and address public school districts in any phase of fiscal distress that includes without limitation identification of early indicators of fiscal distress and early intervention in public school districts that experience early indicators of fiscal distress; and

(3) System for providing continuous fiscal support and monitoring to public school districts that have been returned to local control after being identified as in fiscal distress.

History. Acts 2003, No. 1467, § 18; 2019, No. 910, § 1627; 2019, No. 929, § 1.

Amendments. The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education".

The 2019 amendment by No. 929 rewrote the section.

Cross References. Public School Insurance Trust Fund, § 19-5-1134.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General As-

sembly, Education Law, Academic Standards, 26 U. Ark. Little Rock L. Rev. 385.

CASE NOTES

Authority.

Exception to sovereign-immunity was inapplicable, because the complaints failed to state facts sufficient to show that the actions taken by the Arkansas Depart-

ment of Education when dealing with a fiscally distressed district were in excess of its authority, ultra vires, or in bad faith. *Fitzgiven v. Dorey*, 2013 Ark. 346, 429 S.W.3d 234 (2013).

6-20-1903. Definitions.

As used in this subchapter:

(1) “Annexation” means the joining of an affected school district or part of the school district with a receiving district pursuant to § 6-13-1401;

(2) “Consolidation” means the joining of two (2) or more school districts or parts of the districts to create a new single school district pursuant to § 6-13-1401;

(3) “Fiscal distress status” means a public school district determined by the Division of Elementary and Secondary Education and classified by the State Board of Education as being placed in fiscal distress status pursuant to this subchapter;

(4) “Fiscal integrity” means to comply with financial management, accounting, auditing, and reporting procedures and facilities management procedures as required by state laws and rules and federal laws and regulations in a forthright and timely manner;

(5) “Reconstitution” means the reorganization of the administrative unit or the governing school district board of directors of a school district, including, but not limited to, the replacement or removal of a current superintendent or the removal or replacement of a current school district board of directors, or both;

(6) “School district” means a public school district created or established pursuant to this title; and

(7) “State board” means the State Board of Education.

History. Acts 2003, No. 1467, § 18; 2019, No. 315, § 295; 2019, No. 910, §§ 1628, 1629.

Amendments. The 2019 amendment by No. 315 inserted “laws and rules” in (5) [now (4)].

The 2019 amendment by No. 910 repealed former (3); and substituted “Division of Elementary and Secondary Education” for “department” in (4) [now (3)].

CASE NOTES

Removal of Superintendent.

Summary judgment was proper for a school district in a superintendent’s claim for compensation because the district established, as a matter of law, the defense of impossibility of performance based on the Arkansas Department of Education’s assumption of fiscal control of the district

and removal of the superintendent under subdivision (6) (now (5)) of this section. The Department’s recommendations as to staffing and the fiscal practices of the district were binding on the district per § 6-20-1908(f). *Smith v. Decatur Sch. Dist.*, 2011 Ark. App. 126 (2011).

6-20-1904. Indicators of fiscal distress.

(a) A school district meeting any of the following criteria may be identified by the Division of Elementary and Secondary Education to be a school district in fiscal distress upon final approval by the State Board of Education:

(1)(A) A declining balance determined to jeopardize the fiscal integrity of a school district.

(B) However, capital outlay expenditures for academic facilities from a school district balance shall not be used to put the school district in fiscal distress;

(2) An act or violation determined to jeopardize the fiscal integrity of a school district, including without limitation:

(A) Material failure to properly maintain school facilities;

(B) Material violation of local, state, or federal fire, health, or safety code provisions or law;

(C) Material violation of local, state, or federal construction code provisions or law;

(D) Material state or federal audit exceptions or violations;

(E) Material failure to provide timely and accurate legally required financial reports to the division, Arkansas Legislative Audit, the General Assembly, or the Internal Revenue Service;

(F) Insufficient funds to cover payroll, salary, employment benefits, or legal tax obligations;

(G) Material failure to meet legally binding minimum teacher salary schedule obligations;

(H) Material failure to comply with state law governing purchasing or bid requirements;

(I) Material default on any school district debt obligation;

(J) Material discrepancies between budgeted and actual school district expenditures;

(K) Material failure to comply with audit requirements;

(L) Material failure to comply with any provision of the Arkansas Code that specifically places a school district in fiscal distress based on noncompliance;

(M) Material failure to comply with § 6-20-1913 or division rules concerning the minimum qualifications for a general business manager; or

(N) Material failure to comply with reporting, debt approval, or other requirements placed on a public school district that has been returned to local control under § 6-20-1912; or

(3) Any other fiscal condition of a school district deemed to have a detrimental negative impact on the continuation of educational services by that school district.

(b)(1) By November 1 of each year, the division shall report to the superintendent of a public school district if the division is aware that the public school district has experienced two (2) or more indicators of fiscal distress, as described in subsection (a) of this section or in division

rules, in one (1) school year that the division deems to be at a nonmaterial level but that without intervention could place the public school district in fiscal distress.

(2) By November 1 of each year, the superintendent of a public school district shall report to the division if the superintendent is aware the public school district has experienced two (2) or more indicators of fiscal distress, as described in subsection (a) of this section or in division rules, in one (1) school year that the superintendent deems to be at a nonmaterial level but that without intervention could place the public school district in fiscal distress.

(3)(A) The division and the superintendent shall review all data related to the nonmaterial indicators of fiscal distress.

(B)(i) Within thirty (30) days of the division's determination that the public school district may be experiencing fiscal distress at a nonmaterial level, the division shall provide a notice to the public school district's superintendent and board of directors that:

(a) Describes the nonmaterial indicators of fiscal distress that could jeopardize the fiscal integrity of the public school district if not addressed; and

(b) Identifies the support available from the division to address each nonmaterial indicator of fiscal distress.

(ii) The board of directors of the public school district shall place on the agenda for the next regularly scheduled meeting of the board of directors of the public school district a discussion of the notice of nonmaterial indicators of fiscal distress.

(4)(A) If a public school district is determined to be experiencing fiscal distress at a nonmaterial level under this subsection, the public school district shall:

(i) Comply with all requirements established by the state board in rules, including without limitation review of the public school district's budget, reporting, and the hiring and termination of staff; and

(ii) Not incur any debt without the prior written approval of the division.

(B) The division may request that Arkansas Legislative Audit conduct an annual audit of a public school district that is determined to be experiencing fiscal distress at a nonmaterial level under this subsection.

History. Acts 2003, No. 1467, § 18; 2007, No. 741, § 1; 2009, No. 798, § 1; 2019, No. 910, §§ 1630-1632; 2019, No. 929, §§ 2, 3.

Amendments. The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" in the introductory language of (a); and substituted "division" for "department" throughout the section.

The 2019 amendment by No. 929 added (a)(2)(M) and (a)(2)(N); substituted "November 1" for "August 31" in (b)(1); inserted "as described in subsection (a) of this section or in division rules" in (b)(1) and (b)(2); added "By November 1 of each year" in (b)(2); inserted "public" throughout (b); inserted "public school" preceding "district" near the end of (b)(1) and (b)(2); inserted "of the public school district" twice in (b)(3)(B)(ii); and added (b)(4).

6-20-1905. Notification and appeal.

(a)(1)(A) The Division of Elementary and Secondary Education shall provide written notice, via certified mail, return receipt requested, to the president of the board of directors and the superintendent of each public school district identified as being in fiscal distress.

(B) The division shall provide the notice required under this subdivision (a)(1) on or before June 30 of each year.

(2)(A) At any time after June 30, the division may identify a public school district as being in fiscal distress if the division discovers that a fiscal condition of a public school district negatively impacts the continuation of educational services by the public school district.

(B) The division immediately shall provide the same notice required under subdivision (a)(1)(A) of this section to the public school district identified under this subdivision (a)(2).

(b) Any school district identified in fiscal distress status may appeal to the State Board of Education by filing a written appeal with the office of the Commissioner of Elementary and Secondary Education by certified mail, return receipt requested, within thirty (30) days of receipt of notice of identified fiscal distress status from the division.

(c) The state board shall hear the appeal within sixty (60) days of receipt of the written notice of appeal from the school district.

(d) The written appeal shall state in clear terms the reason why the school district should not be classified as in fiscal distress.

(e) Notwithstanding any appeal rights in this subchapter, no appeal shall stay the division's authority to take action to protect the fiscal integrity of any school district identified as in fiscal distress.

(f) The decision of the state board shall be a final order, and there is no further right of appeal except that the school district may appeal to Pulaski County Circuit Court pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2003, No. 1467, § 18; 2007, No. 741, § 2; 2009, No. 1469, § 11; 2019, No. 910, § 1633; 2019, No. 929, § 4.

Amendments. The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" and "division" for "department" throughout the section; and substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (b).

The 2019 amendment by No. 929 inserted "public" throughout (a); deleted the (a)(1)(A)(i) designation; deleted "school district" preceding "board" in (a)(1)(A); redesignated (a)(1)(A)(ii), (a)(1)(B)(i), and (a)(1)(B)(ii) as (a)(1)(B), (a)(2)(A), and (a)(2)(B); substituted "June 30" for "March 30" in (a)(1)(B) and (a)(2)(A); and updated internal references.

6-20-1906. Classification of fiscal distress status.

(a) Those school districts identified by the Division of Elementary and Secondary Education as being in fiscal distress shall be classified as school districts in fiscal distress upon final determination by the State Board of Education.

(b) Any school district classified as in fiscal distress shall be required to publish at least one (1) time for two (2) consecutive weeks in a newspaper of general circulation in the school district the school district's classification as a school district in fiscal distress and the reasons why the school district was classified as being in fiscal distress.

(c) The provisions of subsections (a) and (b) of this section are effective after the school district's appeal rights have been exhausted.

History. Acts 2003, No. 1467, § 18; substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a).
2019, No. 910, § 1634.

Amendments. The 2019 amendment

6-20-1907. Debt issuance.

No school district identified in fiscal distress may incur any debt without the prior written approval of the Division of Elementary and Secondary Education.

History. Acts 2003, No. 1467, § 18; substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a).
2019, No. 910, § 1635.

Amendments. The 2019 amendment

6-20-1908. Fiscal distress plan.

(a) Those school districts identified by the Division of Elementary and Secondary Education as being in fiscal distress shall file with the division within ten (10) days after the final classification by the State Board of Education a written fiscal distress improvement plan to address any area in which the school district is experiencing fiscal distress as identified by the division.

(b) Each school district shall seek and obtain approval of its plan from the division and shall describe how the school district will remedy those areas in which the school district is experiencing fiscal distress and shall establish the time period by which the school district will remedy all criteria which placed the school district in fiscal distress status.

(c) A public school district in fiscal distress may only petition the state board for removal from fiscal distress status after the division has certified in writing that the public school district has corrected all criteria for being classified as in fiscal distress, has not experienced any additional indicators of fiscal distress, and has complied with all division recommendations and requirements for removal from fiscal distress status.

(d) Except under § 6-20-1910(d), a school district shall not be allowed to remain in fiscal distress status for more than five (5) consecutive school years from the date that the school district was classified as being in fiscal distress status.

(e) Any school district classified as being in fiscal distress status shall be required to receive on-site technical evaluation and assistance from the division.

(f)(1) The division shall evaluate and make written recommendations to the district superintendent regarding staffing of the school district and fiscal practices of the school district.

(2) The written recommendations of the division shall be binding on the school district, the superintendent, and the school district board of directors.

(g) Every six (6) months, the division shall submit a written evaluation on the status of each school district in fiscal distress to the state board.

(h)(1) The division may petition the state board at any time for the consolidation, annexation, or reconstitution of a school district in fiscal distress or take other appropriate action as allowed by this subchapter in order to secure and protect the best interest of the educational resources of the state or to provide for the best interests of students in the school district.

(2) The state board may approve the petition or take other appropriate action as allowed by this subchapter.

(i) Except under § 6-20-1910(d), the state board shall consolidate, annex, or reconstitute any school district that fails to remove itself from the classification of a school district in fiscal distress within five (5) consecutive school years of classification of fiscal distress status unless the state board, at its discretion, issues a written finding supported by a majority of the state board, explaining in detail that the school district could not remove itself from fiscal distress due to impossibility caused by external forces beyond the school district's control.

History. Acts 2003, No. 1467, § 18; 2013, No. 600, §§ 13, 14; 2017, No. 745, §§ 28, 29; 2019, No. 910, § 1636; 2019, No. 929, § 5.

Amendments. The 2017 amendment substituted “§ 6-20-1910(e)” for “§ 6-20-1910(d)” in (d) and (i).

The 2019 amendment by No. 910 substituted “Division of Elementary and Sec-

ondary Education” for “Department of Education” in (a); and substituted “division” for “department” throughout the section.

The 2019 amendment by No. 929, in (c), inserted “public” twice, inserted “has not experienced any additional indicators of fiscal distress”, and added “status” at the end.

CASE NOTES

ANALYSIS

Authority.

Binding Effect of Department Recommendations.

Authority.

Exception to sovereign immunity was inapplicable, because the complaints failed to state facts sufficient to show that the actions taken by the Arkansas Department of Education when dealing with a fiscally distressed district were in excess of its authority, ultra vires, or in bad faith.

Fitzgiven v. Dorey, 2013 Ark. 346, 429 S.W.3d 234 (2013).

Binding Effect of Department Recommendations.

Summary judgment was proper for a school district in a superintendent's claim for compensation because the district established, as a matter of law, the defense of impossibility of performance based on the Arkansas Department of Education's assumption of fiscal control of the district and removal of the superintendent under § 6-20-1903(6) (now (5)). The Depart-

ment's recommendations as to staffing this section. *Smith v. Decatur Sch. Dist.*, 2011 Ark. App. 126 (2011).
and the fiscal practices of the district were binding on the district per subsection (f) of

6-20-1909. Division fiscal distress actions.

(a) In addressing public school districts in fiscal distress, the Commissioner of Elementary and Secondary Education may:

(1) Remove permanently, reassign, or suspend on a temporary basis the superintendent of the public school district and:

(A) Appoint an individual in place of the superintendent to administratively operate the public school district under the supervision and approval of the commissioner;

(B) Compensate nondivision agents operating the public school district from public school district funding; and

(C) Authorize an individual appointed under subdivision (a)(1)(A) of this section to remove, replace, reassign, or suspend public school district personnel in accordance with state law;

(2) Suspend or remove some or all of the current board of directors and call for the election of a new board of directors for the public school district, in which case the public school district shall reimburse the county board of election commissioners for election costs as otherwise recognized by law;

(3)(A) Suspend on a temporary basis some or all of the powers and duties granted to the current public school district board of directors under § 6-13-620 or any other law but allow the public school district board of directors to continue to operate under the direction and approval of the commissioner.

(B) The State Board of Education shall define the powers and duties of the public school district board of directors while the public school district board of directors is operating under the direction and approval of the commissioner under subdivision (a)(3)(A) of this section.

(C) The public school district board of directors shall act in an advisory capacity to the commissioner regarding all powers and duties granted under § 6-13-620 that are not defined under subdivision (a)(3)(B) of this section;

(4) Require the public school district to operate without a board of directors under the supervision of the local superintendent or an individual or panel appointed by the commissioner;

(5) Waive the application of Arkansas law or the corresponding State Board of Education rules, with the exception of:

(A) The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.;

(B) The Public School Employee Fair Hearing Act, § 6-17-1701 et seq.;

(C) Special education programs as provided in this title;

(D) Criminal background checks for employees as provided in this title; and

(E) Health and safety codes as established by the State Board of Education and local governmental entities;

(6) Petition the State Board of Education for the annexation, consolidation, or reconstitution of the public school district;

(7) In the absence of a public school district board of directors, assume all authority of the board of directors as designated by the State Board of Education as may be necessary for the day-to-day governance of the public school district;

(8) Require reassignment of some or all of the administrative, instructional, or support staff of a public school district;

(9) Require reorganization, closure, or dissolution of one (1) or more of the public schools within the public school district;

(10)(A) Return the administration of the public school district to the former board of directors or to a newly elected board of directors if:

(i) The Division of Elementary and Secondary Education certifies in writing to the State Board of Education and to the public school district that the public school district has corrected all issues that caused the classification of fiscal distress and the public school district has not experienced any additional indicators of fiscal distress; and

(ii) The State Board of Education determines the public school district has corrected all issues that caused the classification of fiscal distress.

(B) If the commissioner calls for an election of a new public school district board of directors, the public school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;

(11) Otherwise reconstitute the public school district; or

(12) Take any other action allowed by law that is deemed necessary to assist a public school district in removing the classification of fiscal distress.

(b) The division may impose various reporting requirements on the school district.

(c) The division shall monitor the fiscal operations and accounts of the school district.

(d) The division shall require school district staff and employees to obtain fiscal instruction or training in areas of fiscal concern for the school district.

History. Acts 2003, No. 1467, § 18; 2013, No. 600, § 15; 2017, No. 275, § 5; 2019, No. 910, §§ 1637-1640; 2019, No. 929, § 6.

Amendments. The 2017 amendment, in the introductory language of (a)(4), substituted "Education" for "Eduction".

The 2019 amendment by No. 910 substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in the introductory language of (a); substituted "nondivision" for "nondepartment" in (a)(1)(B); substituted "Division of Elementary and Sec-

ondary Education" for "Department of Education" in (a)(7)(A)(i) [now (a)(10)(A)(i)]; and substituted "division" for "department" in (b), (c), and (d).

The 2019 amendment by No. 929 inserted "public" throughout (a); added (a)(1)(C); inserted (a)(3) and redesignated the remaining subdivisions accordingly; added (a)(5)(C) through (a)(5)(E); inserted (a)(8) and (a)(9) and redesignated the remaining subdivisions accordingly; and added "and the public school district has not experienced any additional indicators of fiscal distress" in (a)(10)(A)(i).

CASE NOTES

Authority.

Exception to sovereign immunity was inapplicable, because the complaints failed to state facts sufficient to show that the actions taken by the Arkansas Depart-

ment of Education when dealing with a fiscally distressed district were in excess of its authority, ultra vires, or in bad faith. *Fitzgiven v. Dorey*, 2013 Ark. 346, 429 S.W.3d 234 (2013).

6-20-1910. State board actions.

(a) After a public hearing, the State Board of Education shall consolidate, annex, or reconstitute the school district in fiscal distress to another school district or school districts upon a majority vote of a quorum of the members of the state board as permitted or required by this subchapter.

(b) The state board has exclusive jurisdiction to determine the boundary lines of the receiving or resulting school district and to allocate assets and liabilities of the school district.

(c) The decision of the state board shall be final with no further right of appeal except that a school district may appeal to Pulaski County Circuit Court pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(d)(1) If, by the end of the fifth school year following the school district's classification of fiscal distress status, the school district in fiscal distress has not corrected all issues that caused the classification of fiscal distress, the state board, after a public hearing, shall consolidate, annex, or reconstitute the school district under this section.

(2) The state board may grant additional time for a public school or school district to remove itself from fiscal distress by issuing a written finding supported by a majority of the state board explaining in detail that the public school or school district could not remove itself from fiscal distress during the relevant time period due to impossibility caused by external forces beyond the control of the public school or school district.

(e) Nothing in this section shall be construed to prevent the Division of Elementary and Secondary Education or the state board from taking any of the actions listed in § 6-20-1909 or this section at any time to address a school district in fiscal distress.

History. Acts 2003, No. 1467, § 18; 2013, No. 600, § 16; 2017, No. 745, § 30; 2019, No. 910, §§ 1641-1644; 2019, No. 929, § 7.

A.C.R.C. Notes. Acts 2019, No. 929, § 7 repeal of (d) supersedes the amendments made to (d) by Acts 2019, No. 910, §§ 1642-1643.

Amendments. The 2017 amendment substituted "§ 6-20-1909" for "subsection (a) of this section" in the introductory

language of (d); and substituted "second full school year following the assumption of authority" for "second school year following a school district's classification as being in fiscal distress status" in (d)(1).

The 2019 amendment by No. 910 substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in the introductory language of (d); substituted "Division of Elementary and Secondary Education" for

“Department of Education” in (d)(2)(C); and substituted “division” for “department” in (d)(3)(A)(ii)(a) and (f). The 2019 amendment by No. 929 repealed former (d).

6-20-1911. Rules.

(a) The Division of Elementary and Secondary Education shall promulgate rules as necessary to identify, evaluate, assist, and address school districts in fiscal distress.

(b) The division may promulgate rules as necessary to administer this subchapter.

History. Acts 2003, No. 1467, § 18; 2019, No. 315, § 296; 2019, No. 910, § 1645.

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a); and substituted “division” for “department” in (b).

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in the section heading and in (a) and (b).

6-20-1912. Fiscal support and monitoring.

(a) When a public school district is returned to local control or removed from fiscal distress status, the Division of Elementary and Secondary Education:

(1) Shall monitor the fiscal operations and accounts of the public school district for a period of three (3) years;

(2) Shall provide support to the public school district regarding maintaining fiscal integrity and best financial management practices; and

(3) May impose various reporting requirements on the public school district.

(b) A public school district that is returned to local control shall:

(1) Comply with all monitoring and reporting requirements established by the division and the State Board of Education, including without limitation review of the public school district’s budget and approval for staffing;

(2) Not incur any debt without prior written approval of the division; and

(3) Use Arkansas Legislative Audit to conduct an annual audit.

History. Acts 2019, No. 929, § 8.

6-20-1913. General business manager — Definition.

(a) As used in this subchapter, “general business manager” means a chief financial officer or business manager, however the position is titled, who:

(1) Is an employee of a public school district or has contracted to perform financial services;

(2) Is responsible for the fiscal operations of a public school district; and

(3) Performs duties under the direction of a superintendent of a public school district.

(b)(1) A general business manager for a public school district shall meet the minimum qualifications established by Division of Elementary and Secondary Education rules.

(2) These division rules shall ensure minimum qualifications that support the implementation of best financial management practices for public school districts.

(c) A general business manager who was hired before July 31, 2007, is exempt from subsection (b) of this section.

History. Acts 2019, No. 929, § 8; 2021, No. 774, § 6. added (a)(1) and redesignated the remaining subdivisions accordingly.

Amendments. The 2021 amendment

6-20-1914. Review of financial management practices.

(a) The Division of Elementary and Secondary Education shall implement a system for reviewing the financial management practices of public school districts to determine the support that is needed by public school districts.

(b) The system established under subsection (a) of this section shall address without limitation a public school district's:

- (1) Use of resources;
- (2) Financial accountability; and
- (3) Personnel systems and benefits management.

History. Acts 2019, No. 929, § 8.

SUBCHAPTER 20 — TRACKING AND ACCOUNTING OF INTERSCHOOL ATHLETIC PROGRAM FUNDS

SECTION.
6-20-2001. Purpose.
6-20-2002. Definitions.
6-20-2003. Reporting by local school districts.

SECTION.
6-20-2004. Rules.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-20-2001. Purpose.

The purpose of this subchapter is to track and account for the amount of state funds that is used to support interschool athletic programs in public schools.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 1.

RESEARCH REFERENCES

Ark. L. Rev. Amy L. Boler, Comment: Put Them In, Coach! They're Ready to Play: Providing Students with Intellectual Disabilities the Right to Participate in School Sports, 69 Ark. L. Rev. 579 (2016).

6-20-2002. Definitions.

As used in this subchapter:

(1) "Athletic expenditures" means all direct expenses related to interschool athletic programs, including without limitation:

(A) The proportion of salaries or supplemental pay for staff for or related to interschool athletic programs or organized physical activity courses as provided under § 6-16-137, or both;

(B) All fringe benefits, including without limitation medical and dental insurance, workers' compensation, pension plans, and any other costs associated with employment of staff for interschool athletic programs;

(C) Travel, including bus-related operation and maintenance, to and from any interschool athletic program event for students, faculty, spirit groups, band, or patrons of the school district;

(D) Equipment;

(E) Meals;

(F) Supplies; and

(G) Medical expenses;

(2) "Classroom teacher" means an individual who is required to hold a teaching license from the Division of Elementary and Secondary Education and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual's contracted time;

(3) "Interschool athletic program" means:

(A) Any athletic program that is organized primarily for the purpose of competing with other schools, public or private; or

(B) Any athletic program that is subject to regulation by the Arkansas Activities Association; and

(4) "State funds" means all money derived from state revenues, specifically including, but not limited to, distributions from the Division of Elementary and Secondary Education Public School Fund Account and ad valorem property taxes distributed to a public school or school district.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 1; 2005, No. 2151, § 19; 2005, No. 2256, § 1; 2007, No. 255, § 1; 2013, No. 1358, § 1; 2019, No. 910, §§ 1646, 1647.

Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” in (2) and (4).

6-20-2003. Reporting by local school districts.

- (a) During the appropriate Arkansas Public School Computer Network reporting cycle each year, a school district shall submit appropriate data to the Division of Elementary and Secondary Education documenting the school district’s total athletic expenditures paid from state funds.
- (b) Annually, each school district shall submit as part of the budget of expenditures and receipts required under § 6-20-2202 a budget for the total athletic expenditures to be paid from state funds for the budgeted year.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 1; 2007, No. 255, § 2; 2013, No. 1358, § 2; 2019, No. 910, § 1648.

substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a).

Amendments. The 2019 amendment

6-20-2004. Rules.

The State Board of Education may promulgate any rules necessary for the implementation of this subchapter.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 1; 2013, No. 1358, § 3.

SUBCHAPTER 21 — TRACKING AND ACCOUNTING OF INTERSCHOOL SCHOLASTIC ACTIVITY FUNDS

SECTION.	SECTION.
6-20-2101. Purpose.	6-20-2103. Reporting by school districts.
6-20-2102. Definitions.	6-20-2104. Rules.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-20-2101. Purpose.

The purpose of this subchapter is to track and account for the amount of state funds that is used to support interschool scholastic activities in public schools.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 2.

6-20-2102. Definitions.

As used in this subchapter:

(1) "Classroom teacher" means an individual who is required to hold a teaching license from the Division of Elementary and Secondary Education and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual's contracted time;

(2) "Interschool scholastic activities" means:

(A) Any interschool activity program that is outside the regular curriculum, excluding interschool athletic programs as defined by § 6-20-2002, which is organized primarily for the purpose of competing with other schools, public or private; or

(B) Any program or activity, excluding interschool athletic programs as defined by § 6-20-2002, which is subject to regulation by the Arkansas Activities Association;

(3) "Interschool scholastic activity expenditures" means all direct expenses related to interschool scholastic activities, including without limitation:

(A) Salaries or supplemental pay for staff for interschool scholastic activities, excluding salaries received for duties as a classroom teacher;

(B) All fringe benefits, including, but not limited to, medical and dental insurance, workers' compensation, pension plans, and any other costs associated with employment of staff for interschool scholastic activities;

(C) Travel, including bus-related operation and maintenance;

(D) Equipment;

(E) Meals;

(F) Supplies; and

(G) Medical expenses; and

(4) "State funds" means all money derived from state revenues, specifically including, but not limited to, distributions from the Division of Elementary and Secondary Education Public School Fund Account and ad valorem property taxes distributed to a public school or school district.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 2; 2005, No. 2256, § 2; 2013, No. 1358, § 4; 2019, No. 910, §§ 1649, 1650.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of

Education” in (1) and (4).

6-20-2103. Reporting by school districts.

- (a) During the appropriate Arkansas Public School Computer Network reporting cycle each year, a school district shall submit data to the Division of Elementary and Secondary Education documenting the school district’s total interschool scholastic activity expenditures paid from state funds.
- (b) Annually, each school district shall submit as part of the budget of expenditures and receipts required under § 6-20-2202 a budget for the total interschool scholastic activity expenditures to be paid from state funds for the budgeted year.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 2; 2013, No. 1358, § 5; 2019, No. 910, § 1651.

Amendments. The 2019 amendment

substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a).

6-20-2104. Rules.

The State Board of Education may promulgate any rules necessary for the implementation of this subchapter.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 2; 2013, No. 1358, § 6.

SUBCHAPTER 22 — ARKANSAS EDUCATIONAL FINANCIAL ACCOUNTING AND REPORTING ACT OF 2004

- SECTION.
- 6-20-2201. Title.
- 6-20-2202. Budget and expenditure report.
- 6-20-2203. Uniform budget and accounting system required.
- 6-20-2204. Required training.
- 6-20-2205. Penalties.

- SECTION.
- 6-20-2206. Miscellaneous provisions.
- 6-20-2207. Rulemaking authority.
- 6-20-2208. Monitoring of expenditures.
- 6-20-2209. [Repealed.]
- 6-20-2210. Limitation on fund balances — Definitions.

Preambles. Acts 2006 (1st Ex. Sess.), Nos. 28 and 29, contained a preamble which read: “WHEREAS, the Public School Funding Act of 2003, the Public School Academic Facilities Program of 2005, and Act 108 of the 2nd Extraordinary Session of 2003 have improved and stabilized funding for public school districts; and

“WHEREAS, the Public School Funding Act of 2003 ensures that school districts have sufficient state aid to provide every student with an equal opportunity to ob-

tain an adequate education, eliminating the need for school districts to retain large fund balances for maintenance and operation due to uncertainty regarding future funding; and

“WHEREAS, Act 108 of the 2nd Extraordinary Session of 2003 ensures that education will be funded first and provides a ‘doomsday’ provision to require transfers from other state agencies if the state experiences an unexpected shortfall, again eliminating a need for school districts to carry large fund balances; and

"WHEREAS, the Public School Academic Facilities Program of 2005 provides that public school districts may apply for state aid to assist with construction of academic facilities, minimizing the need for many public school districts to carry forward large balances in their building funds; and

"WHEREAS, current financial reporting systems do not provide needed information on the fund balances maintained by public school districts, including, but not limited to, the source of the funds and the reason the public school district elected to preserve the funding in its fund balances as opposed to expending the sums on educational needs,

"NOW THEREFORE, ..."

Effective Dates. Identical Acts 2006 (1st Ex. Sess.), Nos. 26 and 27, § 4: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court declared the public school funding system to be inadequate and that the public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity and to ensure adequate funding for public education, the General Assembly must have more accurate and timely information regarding the assessment, settlement, and collection of property taxes by the counties; and that this act is necessary to allow the Assessment Coordination Department, the Department of Education, and the counties sufficient time to make all necessary rules, adjustments, calculations, and reports that will be necessary prior to the convening of the 86th General Assembly. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2006 (1st Ex. Sess.), Nos. 28 and 29, § 2[3]: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Su-

preme Court declared the public school funding system to be inadequate and that the public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity and to ensure adequate funding for public education the General Assembly must have more accurate and timely information regarding school district expenditures, fund balances, and interfund transfers; and that this act will result in the prompt availability of information crucial to ensuring the provision of an adequate and equitable education. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 701, § 6: Mar. 24, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the state has paid the Pulaski County School Districts

over one billion dollars as required by the Pulaski County Desegregation Case styled Little Rock School District v. Pulaski County Special School District No. 1, et al, No. LR-C-82-866; that the Attorney General and the Department of Education are examining the finances of the Pulaski County school districts to determine how those funds are utilized by the districts; that the accounting required by this act is an essential part of reaching a fiscally responsible end to the case; that the General Assembly's support for the efforts of the Attorney General and the department should be provided immediately because the continued funding under the existing settlement agreement without proper accounting and State oversight is detrimental to the fiscal integrity of the three school districts and the State, and to the education of the students in the school districts. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2015, No. 345, § 3: Mar. 6, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that proper training of school district personnel in financial accounting is critical; that financial accounting requirements for school districts

are difficult and complex; and that this act is immediately necessary to ensure that school district personnel are properly trained before the beginning of the next school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-20-2201. Title.

This subchapter shall be known as the "Arkansas Educational Financial Accounting and Reporting Act of 2004".

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1.

6-20-2202. Budget and expenditure report.

(a)(1) The board of directors of each school district, open-enrollment public charter school, and education service cooperative annually shall prepare a budget of expenditures and receipts that shall be filed with

the Division of Elementary and Secondary Education by September 30 of each year under this subchapter.

(2)(A) Each budget shall be approved by the board of directors of each school district, open-enrollment public charter school, and education service cooperative at a legally held meeting and shall be signed by the president of the board of directors and the ex officio financial secretary of each school district, open-enrollment public charter school, and education service cooperative.

(B) The budget shall contain the information and be prepared in an electronic format prescribed by the Division of Elementary and Secondary Education governing financial accounting for Arkansas school districts, open-enrollment public charter schools, and education service cooperatives.

(3)(A) The electronic format required by the Division of Elementary and Secondary Education shall be available for completion by school districts, open-enrollment public charter schools, and education service cooperatives not later than September 15 of each year.

(B) The Division of Elementary and Secondary Education shall declare when the electronic format is accessible to school districts, open-enrollment public charter schools, and education service cooperatives via the Commissioner of Elementary and Secondary Education memo.

(b)(1)(A) Warrants or checks of a school district, open-enrollment public charter school, or education service cooperative issued after the date required by subsection (a) of this section shall be invalid unless a budget has been filed as required by this subchapter and in compliance with appropriate rules.

(B) The ex officio financial secretary of a school district, open-enrollment public charter school, or education service cooperative and his or her surety shall be liable for any warrants or checks countersigned after the date required by subsection (a) of this section if a budget has not been filed.

(2) After the Division of Elementary and Secondary Education has met all deadlines for providing information to school districts, open-enrollment public charter schools, or education service cooperatives, distribution of all grants and aids from the state for which the school district, open-enrollment public charter school, or education service cooperative may be eligible shall be suspended until the requirements of this subchapter are met by the school districts, open-enrollment public charter schools, or education service cooperatives.

(c)(1)(A) School district, open-enrollment public charter school, and education service cooperative budgets filed pursuant to this section shall be reviewed by the Division of Elementary and Secondary Education to determine whether the requirements of state law and the rules of the State Board of Education regarding the use of school, open-enrollment public charter school, and education service cooperative funds and expenditure requirements are being met.

(B)(i) The review and the determination shall be completed not later than February 15 of each year.

(ii) If the Division of Elementary and Secondary Education determines that the financial records are deficient, then the school district, open-enrollment public charter school, or education service cooperative shall be notified and shall have thirty (30) days to respond before suspension of the grants and aids.

(2) Upon approval by the Division of Elementary and Secondary Education, copies of the approved budget shall be filed with the school district, the open-enrollment public charter school, the education service cooperative, the county treasurer if serving as school treasurer, and the Division of Elementary and Secondary Education.

(d)(1)(A) The ex officio financial secretary of each school district, open-enrollment public charter school, and education service cooperative shall keep a record of the following information in a format required by the Division of Elementary and Secondary Education:

(i) The daily expenditures and receipts of the school district, open-enrollment public charter school, or education service cooperative; and

(ii)(a) Information on fund balances maintained by the school district, open-enrollment public charter school, or education service cooperative, including, but not limited to, the:

(1) Sources of the funds maintained as fund balances, to the extent practicable;

(2) Reasons for maintaining, instead of spending, the fund balances;

(3)(A) Amount of funds transferred between various funds during the past year.

(B) The school district, open-enrollment public charter school, and education service cooperative shall identify the funds transferred between and the amount of funds transferred; and

(4) Amount of fund balances dedicated for the construction, maintenance, or repair of academic or athletic facilities.

(b) The Division of Elementary and Secondary Education shall promulgate rules that require reporting of fund balances sufficient to verify whether funds allocated for educational purposes, including, but not limited to, student academic needs and the maintenance and operation of public school district facilities, are used for their intended purposes or retained by the school district in its fund balances.

(B)(i) An annual report summarizing the information required in subdivision (d)(1)(A) of this section in a format required by the Division of Elementary and Secondary Education shall be filed by August 31 of each year with the Division of Elementary and Secondary Education.

(ii) A final close must be performed in each school district's or open-enrollment public charter school's or education service cooperative's applicable general ledger database no later than September 10 of each year.

(iii) The Arkansas Public School Computer Network shall ensure that proper controls are in place to prohibit changes to the aforementioned data after the final close has been performed.

(2) If the Division of Elementary and Secondary Education determines that the financial records of any school district, open-enrollment public charter school, or education service cooperative are not properly maintained or that the financial affairs of the school district, open-enrollment public charter school, or education service cooperative are not administered in accordance with state law or state board rules, grants and aids from the state to which the school district, open-enrollment public charter school, or education service cooperative may be entitled shall be withheld until it is determined that the fiscal records of the school district, open-enrollment public charter school, or education service cooperative are in order or that the financial affairs are being properly administered as established by statute or by rule promulgated by the state board, provided that the Division of Elementary and Secondary Education has met all deadlines for providing information to school districts, open-enrollment public charter schools, or education service cooperatives.

(e)(1) The Division of Elementary and Secondary Education may withhold state aid from any school district, open-enrollment public charter school, or education service cooperative that fails to file its budget or any other required report with the Division of Elementary and Secondary Education by the deadline established by statute or by rule promulgated by the state board or by the due dates established by the Division of Elementary and Secondary Education pursuant to subdivision (e)(2) of this section, provided that the Division of Elementary and Secondary Education has met all deadlines for providing pertinent information to school districts, open-enrollment public charter schools, or education service cooperatives.

(2) The Division of Elementary and Secondary Education shall submit a list of all required financial accountability reports along with due dates to each school district, open-enrollment public charter school, and education service cooperative by July 1 of each year.

(f) The state board shall promulgate the necessary rules to fully implement this section.

(g)(1) The Treasurer of State shall withhold the monthly distribution of county aid provided under § 19-5-602(c) from any county whose county official who is the preparer of the tax books fails to provide by March 15 of each calendar year information concerning the annual abstract of assessment that reflects the aggregate value of the real and personal property for each school district located wholly or in part in the county as follows:

(A) If the county is capable of providing the information electronically, then the information shall be provided to both the Division of Elementary and Secondary Education and the Assessment Coordination Division; and

(B) If the county is not capable of providing the information electronically, then the information shall be provided only to the Assessment Coordination Division.

(2) The information transmitted to the Division of Elementary and Secondary Education and the Assessment Coordination Division shall also include:

(A) The previous calendar year's property assessment that will be used for ad valorem tax collections in the current year; and

(B) The millage rates, which shall be listed by the type of millage, levied against that property assessment.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 77, §§ 1, 2; 2005, No. 730, § 1; 2006 (1st Ex. Sess.), No. 26, § 1; 2006 (1st Ex. Sess.), No. 27, § 1; 2006 (1st Ex. Sess.), No. 28, § 1; 2006 (1st Ex. Sess.), No. 29, § 1; 2007, No. 617, § 22; 2007, No. 858, § 1; 2009, No. 1469, §§ 12, 13; 2011, No. 989, § 72; 2017, No. 741, § 5; 2019, No. 910, § 1652; 2021, No. 544, §§ 46-49.

Amendments. The 2017 amendment in (d)(1)(B)(ii), inserted "or" preceding "open-enrollment" and substituted "September 10 of each year" for "September 30, 2007, for the 2006-2007 school year and September 15 for each school year thereafter".

The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of Education"

throughout the section; substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (a)(3)(B); and substituted "Assessment Coordination Division" for "Assessment Coordination Department" throughout (g).

The 2021 amendment deleted "the auditors of the financial accountability office of" following "reviewed by" in (c)(1)(A); substituted "Division of Elementary and Secondary Education determines" for "auditors of the financial accountability office determine" in (c)(1)(B)(ii); substituted the first occurrence of "Division of Elementary and Secondary Education" for "auditors" in (c)(2); and, in (d)(2), deleted "auditors of the financial accountability office of the" following "If the", and substituted "determines" for "determine".

CASE NOTES

Budget Not Deficient.

School districts did not submit deficient budgets because they included within their budgeted revenue the uniform rate of tax in excess of the foundation-funding amount. These funds had to be returned

solely to the districts from which they were derived, and any withholding of categorical funds from the school districts based on the allegedly deficient budget was erroneous. *Kimbrell v. McCleskey*, 2012 Ark. 443, 424 S.W.3d 844 (2012).

6-20-2203. Uniform budget and accounting system required.

(a)(1) The State Board of Education shall adopt by rule a uniform budget and accounting system that shall be known as the "Arkansas Educational Financial Accounting and Reporting System".

(2) This system shall establish and implement the process and procedures for financial reporting as required by this subchapter for school districts, education service cooperatives, and open-enrollment public charter schools.

(3)(A) Pursuant to § 6-20-2207, the Division of Elementary and Secondary Education shall establish and implement a uniform chart

of accounts known as the "Arkansas Financial Accounting Handbook" or the "Arkansas Handbook".

(B) The Arkansas Handbook shall be incorporated by reference into the rules governing the system.

(C) However, the Arkansas Handbook shall be exempt from the rulemaking process and procedures required pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(4) The rules shall be developed by the state board in cooperation with the division, representatives from the Arkansas Association of Educational Administrators, the Arkansas Association of School Business Officials, the Arkansas Education Association, the education service cooperatives, and the Legislative Joint Auditing Committee.

(b) To the extent necessary to comply with federal law, the terms and definitions contained in the Arkansas Handbook shall initially comply with Financial Accounting for Local and State School Systems, 2003 Edition (NCES 2004-318), and may thereafter be revised by the division as necessary to remain consistent and shall be used for valid comparisons of expenditures of schools, school districts, open-enrollment public charter schools, and education service cooperatives.

(c) In addition, the rules or the Arkansas Handbook shall include, but not be limited to:

(1) Categories to allow for the gathering of data on separate functions and programs;

(2)(A) Categories and descriptions of expenditures that each public school or school district shall report on its annual school performance report authorized by the School Performance Report Act, § 6-15-1401 et seq.

(B) The reported expenditures shall include, but not be limited to, the following categories:

- (i) Total expenditures;
- (ii) Instructional expenditures;
- (iii) Administrative expenditures;
- (iv) Extracurricular expenditures;
- (v) Capital expenditures;
- (vi) Debt service expenditures; and
- (vii) Expenditures of court-ordered desegregation funding;

(3) Categories and descriptions of public school and school district expenditures that allow for the gathering of data on separate functions and programs provided by law, including without limitation the following expenditures:

- (A) Athletic expenditures;
- (B) Student transportation expenditures;
- (C) School-district-level administrative costs;
- (D) School-level administrative costs;
- (E) Instructional facilitators;
- (F) Supervisory aides;
- (G) Substitutes;
- (H) Property insurance; and

- (I) Expenditures of court-ordered desegregation funding;
- (4) Categories and descriptions of public school and school district expenditures that allow for the tracking of expenditures from the following sources of revenue:
 - (A) Student growth;
 - (B) Declining enrollment;
 - (C) Special education high-cost occurrences;
 - (D) Special education services;
 - (E) Technology grants;
 - (F) Debt service funding supplement;
 - (G) General facilities funding;
 - (H) Distance learning;
 - (I) Gifted and talented; and
 - (J) Court-ordered desegregation funding;
- (5) Categories and descriptions of student management coding, including without limitation:
 - (A) Number of students transported; and
 - (B) Daily route mileage;
- (6) Categories and descriptions of restricted fund balances that provide documentation of the purpose for the restriction;
- (7) Categories and descriptions of expenditures that each education service cooperative shall report on its annual report authorized by law; and
- (8) Rules relating to computing error rates in coding and reporting financial information under the system and penalties to focus on areas needing improvement.
- (d) The Arkansas Handbook shall contain appropriate format and codes for expenditures for education service cooperatives.
- (e) The division shall have the authority to analyze and inspect the financial records of any school, open-enrollment public charter school, school district, or education service cooperative in order to verify that a school, open-enrollment public charter school, school district, or education service cooperative is correctly and accurately reporting expenditures.
- (f) By February 15 of each year, the division shall submit a report to the state board, the Governor, the Senate Committee on Education, and the House Committee on Education concerning public school and public school district expenditures required by law.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1; 2007, No. 1006, § 1; 2011, No. 701, §§ 3-5; 2019, No. 757, § 45; 2019, No. 910, §§ 1653-1661.

Amendments. The 2019 amendment by No. 757 deleted former (c)(3)(B) and redesignated former (c)(3)(A) as (c)(3); deleted former (c)(4)(B) and redesignated former (c)(4)(A) as (c)(4); deleted former (c)(5)(B) and redesignated former (c)(5)(A)

as (c)(5); deleted (c)(6)(B) and redesignated former (c)(6)(A) as (c)(6); and deleted (c)(8)(B) and redesignated former (c)(8)(A) as (c)(8).

The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a)(3)(A); and substituted "division" for "department" throughout the section.

6-20-2204. Required training.

(a)(1)(A) The Division of Elementary and Secondary Education shall establish two (2) tiers of required training.

(B) Both tiers of required training shall apply to public school districts, open-enrollment public charter schools, and education service cooperatives.

(C)(i) At a minimum, two (2) persons per educational entity are required to attend an initial and annual Tier I training:

(a) The school district superintendent or the education service cooperative director or the open-enrollment public charter school director; and

(b) A person whose job responsibilities include preparing the budget or overall accounting responsibility.

(ii) The two (2) persons per educational entity required to attend the initial and annual Tier I training shall each obtain twelve (12) hours of initial training and instruction necessary to demonstrate basic proficiency as determined by the division, including, but not limited to:

(a) School laws of Arkansas;

(b) Laws and rules governing the expenditure of public education funds, fiscal accountability, and school finance;

(c) Ethics; and

(d) Financial accounting and reporting of schools, school districts, open-enrollment public charter schools, and education service cooperative expenditures.

(2)(A) Each year thereafter, the school district superintendent, the education service cooperative executive director, or open-enrollment public charter school director and the person whose job responsibilities include preparing the budget or overall accounting responsibility who have already attended the initial and Tier I training shall obtain by December 31 of each calendar year a minimum of two (2) hours of annual training and instruction as required by the division in order to maintain basic proficiency in the topics described in subdivision (a)(1) of this section.

(B) Additional annual training may be required by the division for the school district superintendent, the education service cooperative executive director, or open-enrollment public charter school director and the person whose job responsibilities include preparing the budget or overall accounting responsibility based on repetitive or flagrant audit findings or the identification of multiple indicators of fiscal distress.

(3)(A) The instruction may be provided by an institution of higher education in this state, from instruction sponsored by the division, by an in-service training program conducted by the Arkansas Association of School Business Officials, or from another provider.

(B) To satisfy the training and requirements under this subsection, any provider other than the division shall apply for and receive

preapproval by the division as to the form and content of the training and instruction before they are offered as training and instruction to comply with the provisions of this subsection.

(4)(A) If a person fails to obtain the required Tier I training by the end of the calendar year and fails to cure the deficiency by March 1 of the following calendar year without filing a request for extension of time as determined from the records of the division, the division shall immediately notify the superintendent of the employing school district, the director of the open-enrollment public charter school, or the executive director of the education service cooperative by certified mail, return receipt requested, with a copy to the Chair of the State Board of Education.

(B)(i) The superintendent of the school district, the director of the open-enrollment public charter school, or the education service cooperative executive director shall notify the person by certified mail, return receipt requested, and the person shall be unable to continue in his or her position from the date of receipt of notification by the superintendent of the school district, the director of the open-enrollment public charter school, or the education service cooperative executive director.

(ii) Any person receiving notice that he or she shall be unable to continue in his or her position solely because of his or her failure to obtain the required training may request a hearing before the State Board of Education before his or her permanent dismissal.

(5) If the person fails to obtain all required training by December 31, this failure shall constitute one (1) citation against the school district or the open-enrollment public charter school as measured by the Standards for Accreditation of Arkansas Public Schools and School Districts issued by the division or an admonishment to the education service cooperative by the division.

(6)(A) If the person is unable to obtain the required training because of military service or illness as verified by a written sworn statement of the person's attending physician, the division shall grant an extension permitting the person additional time to obtain the required training.

(B) The issuance of an extension shall not constitute a citation against the school district as measured by the Standards for Accreditation of Arkansas Public Schools and School Districts issued by the division or the education service cooperative and shall not operate to remove the person from his or her job.

(b)(1) Tier II training shall include, but not be limited to, employees who do not make decisions about selecting codes or who have a limited number of codes that they can use.

(2) Tier II training shall be developed by the division in cooperation with representatives from the Arkansas Association of Educational Administrators, the Arkansas Association of School Business Officials, the Arkansas Education Association, the Legislative Joint Auditing Committee, and the education service cooperatives.

(3)(A) The training shall be annual and shall be a minimum of two (2) hours.

(B) Additional annual training may be required by the division for employees who do not make decisions about selecting codes or who have a limited number of codes that they can use based on repetitive or flagrant audit findings or the identification of multiple indicators of fiscal distress.

(4) School districts shall be responsible for providing the training to these employees.

(5) School district trainers are required to attend Tier I training and annual updates as required by the division under this subsection and subsection (a) of this section.

(c)(1) Each school district, open-enrollment public charter school, or education service cooperative shall maintain files and records indicating all employees who are required to obtain and who have completed Tier II training.

(2) Each school district superintendent, open-enrollment public charter school director, or education service cooperative executive director shall provide the division an assurance statement regarding the completion of Tier II training by the required individuals.

(d) The state board shall modify the Standards for Accreditation of Arkansas Public Schools and School Districts issued by the division as may be required by this section.

(e) It is the responsibility of the division to receive and maintain records of instructional hours of Tier I training obtained under this section.

(f) The state board is authorized to promulgate rules consistent with the provisions of this section.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1; 2007, No. 617, § 23; 2015, No. 345, §§ 1, 2; 2019, No. 315, § 297; 2019, No. 910, § 1662.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (f).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a)(1)(A); and substituted “division” for “department” throughout the section.

6-20-2205. Penalties.

(a) Any school district or open-enrollment public charter school that does not follow the provisions of this subchapter shall be placed in fiscal distress as provided by law.

(b) Any education service cooperative that does not follow the provisions of this subchapter shall be sanctioned by the State Board of Education.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1.

6-20-2206. Miscellaneous provisions.

(a) If the Division of Elementary and Secondary Education determines that an overpayment has been made to a school district, open-enrollment public charter school, or education service cooperative in any funding category authorized by law, the division is authorized to withhold the overpayment from future funding of the school district, open-enrollment public charter school, or education service cooperative and is authorized to transfer the amount withheld for the overpayment to the line item appropriation from which the overpayment was initially made.

(b) Each school district, local education agency, open-enrollment public charter school, and education service cooperative shall prepare an annual statement of the financial conditions and transactions of the school district, open-enrollment public charter school, or education service cooperative as of June 30 of each year.

(c) In order for a school district, open-enrollment public charter school, or education service cooperative to be entitled to state aid as provided by law, each school district, open-enrollment public charter school, and education service cooperative shall satisfy the following requirements:

(1) Expenditures for any fiscal year shall not exceed the legal revenues for that year;

(2) The school district, open-enrollment public charter school, and education service cooperative shall maintain such records and make such reports relative to attendance, receipts, and disbursements and other reports as required by the rules of the State Board of Education;

(3) The school, school district, open-enrollment public charter school, and education service cooperative shall maintain proper financial records in accordance with the Arkansas Educational Financial Accounting and Reporting System, which includes the Arkansas Financial Accounting Handbook, and any reports required pursuant to § 6-20-2202(e)(2);

(4)(A) The school district, open-enrollment public charter school, and education service cooperative shall file annually with the state board a salary schedule for its licensed employees which recognizes a minimum level of training and experience.

(B) This schedule shall reflect the actual pay practices of the school district, open-enrollment public charter school, or education service cooperative, including all fringe benefits and supplemental salary schedules.

(C) Salary increments for experience or education, or both, shall be identified on the schedule; and

(5)(A) All pupil attendance records shall be kept in their original form.

(B) Pupil attendance records shall be kept according to law and rule on paper or electronic forms either furnished or approved by the division.

(C) Original pupil attendance records shall be kept on file in the office of the superintendent of schools after the school term is ended for a period of three (3) years, and these records shall be available for monitoring purposes during any day of the school term by the teachers or other persons designated to keep attendance.

(d) School districts may not include the cost of substitute teachers, extended contracts for extracurricular activities, or supplementary pay for extracurricular activities in meeting the expenditures requirement for student classroom teacher salaries.

(e) Any licensed classroom teacher or administrator of a school, school district, open-enrollment public charter school, or education service cooperative that provides false expenditure information may have his or her license placed on probation, suspended, or revoked pursuant to rules promulgated by the state board.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1; 2013, No. 1138, § 49; 2019, No. 757, § 46; 2019, No. 910, §§ 1663, 1664.

Amendments. The 2019 amendment by No. 757 deleted “and shall be public records” following “form” in (c)(5)(A).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a); and substituted “division” for “department” in (a) and (c)(5)(B).

6-20-2207. Rulemaking authority.

(a)(1)(A) The State Board of Education shall promulgate rules governing a uniform budget and accounting system that shall be known as the “Arkansas Educational Financial Accounting and Reporting System”.

(B) This system shall include a uniform chart of accounts known as the “Arkansas Financial Accounting Handbook” that shall be exempt from the rulemaking process pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(2) These rules shall be applied to all school districts, open-enrollment public charter schools, and education service cooperatives for purposes of reporting and accounting for revenues and expenditures.

(3) As necessary to comply with federal law, the Arkansas Financial Accounting Handbook initially shall comply with the Financial Accounting for Local and State School Systems, 2003 Edition (NCES 2004-318). The Arkansas Financial Accounting Handbook shall be exempt from the rulemaking process and procedures required pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b)(1)(A) The state board shall amend the rules, and the Division of Elementary and Secondary Education shall amend the Arkansas Financial Accounting Handbook provided in subsection (a) of this section as necessary.

(B) The amendments, annual revisions, and financial accounting updates to the Arkansas Financial Accounting Handbook shall be developed with representatives from the Arkansas Association of

School Business Officials, the education service cooperatives, and other school district officials as designated by the division.

(2) Before making an amendment to the Arkansas Financial Accounting Handbook, the division shall provide written notice via a Commissioner of Elementary and Secondary Education memo to the school districts, open-enrollment public charter schools, and education service cooperatives.

(3) Amendments, annual revisions, and financial accounting updates shall be effective on July 1 of the next fiscal year or ninety (90) days from the date of the commissioner's memo, whichever is later, unless:

(A) The commissioner declares that there is an emergency, at which time the change shall be effective immediately upon the date specified in the commissioner's memo;

(B) A new program or revenue source requires new accounting codes, at which time the change shall be effective immediately upon the date specified in the commissioner's memo; or

(C)(i) The change affects only a few school districts and the school districts have mutually agreed to make the change.

(ii) The changes shall be effective immediately upon the date specified in the commissioner's memo.

(c) Any school district, open-enrollment public charter school, or education service cooperative that fails to comply with state law or rules governing and providing a uniform chart of accounts for budgeting of revenues, expenditures, and financial reporting shall be deemed to be in fiscal distress and subject to the applicable enforcement provisions as provided by law.

(d) Any school district, open-enrollment public charter school, or education service cooperative that fails to comply with the expenditure requirements of any public school, public school district, or education service cooperative funding law shall be deemed to be in fiscal distress and subject to the applicable enforcement provisions as provided by law.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1; 2007, No. 617, § 24; 2019, No. 757, § 47; 2019, No. 910, § 1665.

Amendments. The 2019 amendment by No. 757 inserted "initially" in the first sentence of (a)(3).

The 2019 amendment by No. 910 substituted "Division of Elementary and Sec-

ondary Education" for "Department of Education" in (b)(1)(A); substituted "division" for "department" in (b)(1)(B) and (b)(2); and substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (b)(2).

6-20-2208. Monitoring of expenditures.

(a)(1) The General Assembly determines that, although funds may be distributed to school districts under this subchapter, it is the duty and responsibility of the State of Arkansas to monitor such expenditures to ensure that each public school child in Arkansas is provided with an adequate education.

(2) The General Assembly further finds that a uniform system of accounting for and reporting expenditures is necessary to allow the state to monitor expenditures.

(b) Each school district shall ensure that funds distributed by the State of Arkansas to the district are utilized in an efficient manner in order to provide an adequate education.

(c) Each school district shall:

(1) Expend sums for teacher salaries in order to meet the requirements of Arkansas law;

(2)(A) Expend the sums allocated to the school district under § 6-20-2305(b) for salaries and other instructional aid components to benefit students in the special needs categories within the school district unless other expenditures are allowed by law or rule of the State Board of Education or the Division of Elementary and Secondary Education.

(B) Further ensure that those sums are used to improve the educational opportunity of those children with a primary emphasis on improving each student's proficiency;

(3) Expend other sums as may be allocated under this subchapter and as may be required by law in order to provide an equal opportunity for an adequate education;

(4) Ensure that sums appropriated by law and allocated to the school district are used to meet standards for accreditation and to provide the required curriculum for all students in the school district;

(5) Ensure that sums allocated for facilities or other capital needs are spent in accordance with law; and

(6) Expend state and local revenues on gifted and talented programs:

(A) In an amount equal to fifteen hundredths (0.15) of the foundation funding amount multiplied by five percent (5%) of the school district's average daily membership for the previous year; and

(B) Only upon gifted and talented programs in accordance with rules promulgated by the state board.

(d)(1) During the appropriate Arkansas Public School Computer Network reporting cycle each year, each school district shall submit appropriate data to the division establishing the school district's compliance with this section.

(2) The data shall be timely, accurate, and in the format required by rules promulgated by the state board.

(3) The data reported shall reflect the expenditure of each category of additional education categories.

(4) Reports for each school district shall be developed by the division and transmitted to the Governor, the Senate Committee on Education, and the House Committee on Education.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1; 2009, No. 376, § 42; 2019, No. 910, §§ 1666-1668.

Amendments. The 2019 amendment

substituted "Division of Elementary and Secondary Education" for "Department of Education" in (c)(2)(A); and substituted "division" for "department" in (d)(1) and

(d)(4).

6-20-2209. [Repealed.]

Publisher's Notes. This section, concerning the study of improved reporting systems, was repealed by Acts 2013, No. 1138, § 50. The section was derived from Acts 2006 (1st Ex. Sess.), No. 28, § 2; 2006 (1st Ex. Sess.), No. 29, § 2.

6-20-2210. Limitation on fund balances — Definitions.

(a) As used in this section:

(1) "Facilities master plan" means the same as defined in § 6-21-803;

(2) "Net legal balance" means the:

(A) Combined balance for a public school district's teacher's salary fund, operating fund, and debt services fund; minus

(B) Combined balance for the following funds for a public school district's categorical funding:

(i) National school lunch fund;

(ii) Alternative learning environment fund;

(iii) English-language learner fund; and

(iv) Professional development fund; minus

(C) Escrow balance restricted for the retirement of federal qualified bonds;

(3) "Net legal balance revenues" means:

(A) Revenues placed into the teacher's salary fund, operating fund, and debt services fund; minus

(B) Revenues placed into the:

(i) National school lunch fund;

(ii) Alternative learning environment fund;

(iii) English-language learner fund; or

(iv) Professional development fund; minus

(C) Proceeds derived from federal qualified bonds;

(4)(A) "Revenues" means the same as defined in the latest version of the Arkansas Financial Accounting Handbook established by the Division of Elementary and Secondary Education under § 6-20-2203.

(B) "Revenues" does not include financing sources such as:

(i) Bond or other debt proceeds;

(ii) Loans;

(iii) Bonded debt refunding savings;

(iv) Consolidation and annexation funding;

(v) Audit adjustments;

(vi) Proceeds from the sale or loss of public school district real or personal property;

(vii) Interfund transfers; or

(viii) Other similar nonrevenue financing sources as defined in:

(a) The latest version of the Arkansas Financial Accounting Handbook established by the division under § 6-20-2203; or

(b) Rules promulgated by the division; and

(5) "School district" means the same as defined in § 6-21-803.

(b) If at the close of the fiscal year a public school district has a net legal balance that exceeds twenty percent (20%) of the public school district's current year net legal balance revenues, the public school district shall within five (5) years reduce its net legal balance to no more than twenty percent (20%) of the public school district's current year net legal balance revenues.

(c) A public school district may reduce its excess net legal balance under subsection (a) of this section by:

(1)(A) Transferring funds into the public school district's building fund.

(B) Any funds transferred into the public school district's building fund under subdivision (c)(1)(A) of this section shall be used for construction, renovation, repair, or other planned building fund expenditure or project allowed within building fund coding specifications in the latest version of the annual financial report and budget expenditures fund specification of the Arkansas Public School Computer Network.

(C) If the construction, renovation, repair, or other planned building fund expenditure or project under subdivision (c)(1)(B) of this section is cancelled or revised such that the funds are no longer dedicated to the construction, renovation, repair, or other planned building fund expenditure or project, the public school district may transfer the funds back into the fund from which the transfer was made under subdivision (c)(1)(A) of this section unless transferring the funds will result in the net legal fund balance exceeding twenty percent (20%) of the public school district's current year net legal balance revenues; or

(2) Spending funds on, including without limitation:

(A) Prekindergarten programs;

(B) Remediation programs;

(C) Career and technical education or workforce readiness programs; or

(D) Any other program or for any other purpose authorized by law.

(d)(1) The division shall:

(A) Monitor on a yearly basis each public school district's compliance with the requirements of this section; and

(B) Withhold subsequent state funding from a public school district in the amounts under subdivision (d)(2) of this section for each year the public school district fails to make the required reduction.

(2) If a public school district fails to reduce every year within the five-year period its net legal balance by twenty percent (20%) of the total required reduction under subsection (b) of this section, the division shall withhold subsequent state funding from that public school district in an amount equal to the amount the public school district failed to reduce its net legal balance for that year.

(e)(1) Under an unusual and limited circumstance, including without limitation an increase in one-time funds, a public school district may request that the division waive the requirements of this section.

- (2) A public school district seeking a waiver shall file a waiver request with the Commissioner of Elementary and Secondary Education, accompanied by a resolution adopted by the public school district's board of directors, describing the unusual and limited circumstances.
- (3) The commissioner may grant a waiver request under this subsection if the commissioner finds that the request is necessary based upon the unusual and limited circumstances.
- (f) The division shall promulgate rules to implement this section.

History. Acts 2017, No. 1105, § 1; 2019, No. 910, §§ 1669-1671.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a)(4)(A); substituted "division" for "department" throughout the section; and substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (e)(2).

SUBCHAPTER 23 — PUBLIC SCHOOL FUNDING ACT OF 2003

- SECTION.
- 6-20-2301. Title.
 - 6-20-2302. Legislative findings.
 - 6-20-2303. Definitions.
 - 6-20-2304. Rules — Access to information on legislation.
 - 6-20-2305. School funding.
 - 6-20-2306. Division of Elementary and Secondary Education to

- SECTION.
- provide funding — Adjustments for overpayments.
 - 6-20-2307. Property tax report.
 - 6-20-2308. Calculation of miscellaneous funds.
 - 6-20-2309. Enhanced transportation funding.

A.C.R.C. Notes. Acts 2007, No. 272, § 1, provided: "Act 57 Compliance. The General Assembly declares this act to be in concordance with the study of the state's system of public education conducted in 2006 by the Adequacy Study Oversight Subcommittee, the House Interim Committee on Education, and the Senate Interim Committee on Education in compliance with Act 57 of the Second Extraordinary Session of 2003."

Acts 2019, No. 1082, § 1, provided: "Legislative intent. The General Assembly finds that:

"(1) Full implementation of Arkansas' goal of a student-focused education system for all students will require most schools to rethink, if not restructure, their entire educational program and reallocate all current and any new resources to a restructured and more effective educational delivery;

"(2) Since 2005, two billion six hundred eighty-six million eight hundred five thousand eight hundred fifty dollars (\$2,686,805,850) in national school lunch funds have been sent to public schools in

Arkansas;

"(3) National school lunch state categorical programs are designed to provide extra help and strategies for struggling students and must be focused to target the needs of struggling students;

"(4) Current flexibility in national school lunch state categorical funding allowable expenditures has not shown that the funds have had a positive impact on student outcomes or successfully closed achievement gaps;

"(5) Public school districts spend the highest amount of national school lunch state categorical funds on curriculum specialists and instructional facilitators and other activities that are not specified by law or Department of Education rule that have been approved by the Department of Education, and transfer national school lunch state categorical funds to other categorical programs;

"(6) Thirty-four percent (34%) of Arkansas public students in grades three through ten (3-10) are scoring at the lowest level of performance on the ACT Aspire reading test;

"(7) Six (6) Core Strategies were included in the Odden and Picus Original 2003 Adequacy Report, the 2006 Recalibration report, and the 2014 Desk Audit, and all educational initiatives included in these reports and the funding used for the educational initiatives are backed by evidence-based research;

"(8) Arkansas's students must be prepared for college, careers, and citizenship in the current global economy, and work in the knowledge-based economy requires the same skills and expertise to go to college or to enter the work force after high school;

"(9) Public schools must deploy more powerful instructional strategies and use resources more productively, and need to change the curriculum that is used, the means of organizing instruction, and how resources are used;

"(10) Teacher development opportunities must be redesigned to provide personalized opportunities so that all teachers acquire the instructional expertise to educate all students by using the extensive professional development resources that are included in the funding model in the most effective ways;

"(11) Schools must reinforce achievement for struggling students by providing a series of extended learning opportunities, such as some combination of one-on-one and small group tutoring by a licensed teacher, extended-day learning, and summer school programs, and must hold performance standards high and vary instructional time so all students can achieve rigorous standards in order to work towards closing the achievement gap; and

"(12) The House Committee on Education and the Senate Committee on Education, meeting jointly, find it necessary to revise current national school lunch state categorical funding allowable expenditures in order to maximize the most effective use of funds and focus allowable expenditures on targeted programs that maximize student achievement."

Effective Dates. Acts 2003 (2nd Ex. Sess.), No. 59, § 6: July 1, 2004. Effective date clause provided: "This act shall become effective on July 1, 2004."

Acts 2005, No. 2283, § 3: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the current

funding provided for public schools is for the 2004-2005 school year; that it is necessary to fund school districts for the remainder of the biennium; and that this act is immediately necessary because changes in funding for school districts must be available for the 2005-2006 school year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Acts 2006 (1st Ex. Sess.), No. 19, § 10: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court declared the public school funding system to be inadequate and that public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity and to ensure adequate funding for public education, the General Assembly must revise the public school funding formula, revise laws regarding public school facilities, provide funding for retirement increases and limit additional increases; and enact other necessary reform measures; and that this act is immediately necessary to ensure that reform measures are available to public schools for the 2005-2006 and 2006-2007 school years. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2006 (1st Ex. Sess.), No. 21, § 3: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court found that the public school funding system continues to be inadequate and the public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity and to provide adequate funding for public education, the amount of funding provided to school districts

with declining enrollment and the amount of special needs isolated funding provided to school districts with isolated schools should be increased; and that this act is necessary to allow the Department of Education and the Chief Fiscal Officer of the State sufficient time to make all necessary adjustments, calculations, and distributions to provide adequate funding for school districts with declining enrollments and isolated schools that receive special needs isolated funding. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Identical Acts 2006 (1st Ex. Sess.), Nos. 30 and 31, § 2: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court found that the public school funding system continues to be inadequate and the public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity and to provide adequate funding for public education, the amount and use of funding provided to school districts shall be revised; and that this act is necessary to allow the Department of Education and the Chief Fiscal Officer of the State sufficient time to make all necessary adjustments, calculations, and distributions. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2007, No. 272, § 10: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the 2006 Act

57 study recommended that foundation funding and categorical funding be increased for the 2007-2008 and 2008-2009 school years; that the method of calculating the state foundation funding aid should be changed to ensure that all public school districts receive the full amount of foundation funding; and that this act is immediately necessary to ensure that public school districts receive adequate foundation funding for the 2007-2008 school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2007, No. 273, § 2: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the 2006 Act 57 adequacy study recommended that foundation funding be increased for the 2007-2008 and 2008-2009 school years; that the method of calculating the state foundation funding aid should be changed to ensure that all public school districts receive the full amount of foundation funding plus an enhanced educational component of additional funding above and beyond adequate foundation funding; and that this act is immediately necessary to ensure that public school districts receive said funding for the 2007-2009 biennium. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2007, No. 825, § 2: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the 2006 Act 57 study recommended that foundation funding and categorical funding be increased for the 2007-2008 and 2008-2009 school years; that the method of calculating the state foundation funding aid should be changed to ensure that all public school districts receive the full amount of foundation funding; and that this act is necessary to ensure that public school districts receive adequate foundation funding for the 2007-2008 school year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

Acts 2009, No. 965, § 2: Apr. 6, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that accurate information is required to determine the correct funding for school districts; that variances in the distribution of excess commission payments to school districts can cause aberrations in revenue levels; and that this act is immediately necessary to ensure a school district receives all funding it is entitled to and is not penalized for irregularities in the distribution of excess commission payments. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1186, § 2: Apr. 7, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that accurate information is required to determine the correct funding for school districts; that variances in the distribution of excess commission payments to school districts can cause aberrations in revenue levels; and that this act is immediately necessary to ensure a school district receives all funds it is entitled to and is not penalized for irregularities in the distribution of excess commission payments. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1397, § 10: Apr. 9, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the constitutional obligation of the state to ensure that the state's public school chil-

dren receive an equal opportunity for an adequate education; that the timely and accurate collection and reporting by counties of the proceeds generated from the uniform rate of tax is necessary to ensure educational adequacy; that the Treasurer of State, the Department of Education, the Assessment Coordination Department, and the counties need to implement the reporting process required under this act so that timely and accurate calculations for public school funding will be made before the beginning of the 2009-2010 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1450, § 2: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the obligation of the state to provide a substantially equal opportunity for an adequate education to the public students of this state; that public school district miscellaneous funds as defined by § 6-20-2303 are part of the foundation funding the General Assembly has determined is necessary to provide an adequate education; that the calculation of miscellaneous funds as amended by Senate Bill No. 814 of 2009 will cause some school districts to receive less state foundation funding aid than is needed for the 2008-2009 school year; and that this act is immediately necessary to ensure that the method of calculating miscellaneous funds used by the Department of Education will result in the correct calculation of the amount of state foundation funding aid to school districts for the 2008-2009 school year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is

the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 993, § 18: Apr. 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public charter schools; and that this act is immediately necessary so that the affected public charter schools will receive the amount of funding provided under this act for the current school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 1039, § 5: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes

in this act are needed to ensure that proper funding is provided to public schools and school districts; and that this act is immediately necessary so that public schools and school districts will receive the amount of funding provided under this act for the 2011-2012 school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

Acts 2011, No. 1118, § 5: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the constitutional obligation of the state to ensure that the state's public school children receive an equal opportunity for an adequate education; that to ensure that opportunity, it is essential that the state's public schools and education service cooperatives operate effective alternative learning environments; that the immediate effectiveness of this bill is necessary for the implementation of the funding changes and for the public schools and education service cooperatives to operate effective alternative learning environments under this bill throughout the state by the 2011-2012 school year; and that any delay in the effective date of this act could work irreparable harm to the quality of education available to students who are educated in alternative learning environments in this state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

Acts 2013, No. 557, § 3: Apr. 2, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Constitution requires the State of Arkansas to provide a general, suitable, and efficient system of public education that provides a substantially equal opportunity for an adequate education to all public school students; that school districts prepare their annual budgets based upon the distribution of funds under § 6-20-2305(a)(4); and that, in order to ensure that a substantially equal opportunity for an adequate education is provided, this act is immediately necessary so that a school district may prepare its budgets for

the 2013-2014 school year based upon the new law. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2013, No. 969, § 12: Apr. 8, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the professional development of public school teachers and administrators is critical to the delivery of a constitutionally adequate education; and that this act is immediately necessary for school districts and educators to prepare for the professional development requirements needed for the 2013-2014 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2013, No. 1467, § 7: July 1, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are necessary to ensure that proper funding is provided to public schools and school districts; and that this act is immediately necessary so that public schools and school districts will receive the amount of funding provided under this act for the 2013-2014 school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace,

health, and safety shall become effective on July 1, 2013."

Acts 2013 (1st Ex. Sess.), No. 2, § 5: July 1, 2014. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Public School Insurance Trust Fund is inadequate to provide affordable health insurance for public school employees; changes to the funding system for public school employee health insurance is necessary to ensure a stable and affordable program of health insurance plan options; and that this act is necessary to provide additional funding for public school employee health insurance. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2014."

Acts 2015, No. 1248, § 7: Apr. 8, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that funding for public schools is the obligation of the state; that ensuring adequate funding is provided is the duty of the General Assembly; and that this act is immediately necessary to ensure that funding is provided for the 2015-2016 and 2016-2017 school years so that school districts can budget accordingly. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2017, No. 743, § 7: Mar. 29, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that funding for public schools is the obligation of the state; that ensuring that adequate funding is provided is the duty of the General Assembly; and that this act is immediately necessary to ensure that funding is provided for the 2017-2018 and 2018-2019 school years so that school districts can budget accordingly. Therefore, an emergency is declared to exist, and this act being immediately necessary for the pres-

ervation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 667, § 6: Apr. 3, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that funding for public schools is the obligation of the state; that ensuring that adequate funding is provided is the duty of the General Assembly; and that this act is immediately necessary to ensure that funding is provided for the 2019-2020 and 2020-2021 school years so that school districts can budget accordingly. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

Acts 2021, No. 323, § 2: Mar. 15, 2021. Emergency clause provided: "It is found

and determined by the General Assembly of the State of Arkansas that transportation funding for public schools is an obligation of the state; that ensuring that adequate transportation funding is provided is a duty of the General Assembly; and that this act is immediately necessary to ensure that transportation funding is provided for the 2021-2022 and 2022-2023 school years so that school districts can budget accordingly. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2021, No. 400, § 2: Mar. 17, 2021. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that transportation funding for public schools is an obligation of the state; that ensuring that adequate funding is provided is a duty of the General Assembly; and that this act is immediately necessary to ensure that funding is provided for the 2021-2022 and 2022-2023 school years so that school districts may budget accordingly. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2021, No. 614, § 6: Apr. 8, 2021. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that funding for public schools is the obligation of the state; that ensuring that adequate funding is provided is the duty of the General Assembly; and that this act is immediately necessary to ensure that funding is provided for the 2021-2022 and 2022-2023 school years so that school districts can budget accordingly. Therefore, an emer-

gency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Identical Acts 2021, Nos. 679 and 680, § 4: Apr. 12, 2021. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that there is a shortage of licensed teachers in several areas of this state; that teacher salaries are a key factor in at-

tracting individuals to the field of teaching; and that the provisions of this act should become effective immediately in order to allow the provisions of this act to be implemented for the 2021-2022 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-20-2301. Title.

This subchapter shall be known and may be cited as the “Public School Funding Act of 2003”.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 1.

6-20-2302. Legislative findings.

(a) The General Assembly recognizes that:

(1) Intelligence and virtue are the safeguards of liberty and the bulwark of a free and good government; and

(2) Arkansas Constitution, Article 14, § 1, requires the State of Arkansas to ever maintain a general, suitable, and efficient system of free public schools and to adopt all suitable means to secure to the people the advantages and opportunities of education.

(b) The General Assembly finds that because of the decision of the Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002), it is the absolute duty of the State of Arkansas to provide all public school children with an opportunity for an adequate education.

(c) The General Assembly finds that a suitable and efficient system of public education should:

(1) Assure the availability of substantially equal and constitutionally appropriate expenditures by the state for the education of each similarly situated child in the public schools, regardless of where that child resides within the state;

(2) Assure that each school-age child resides in a school district that offers a competitive minimum salary for classroom teachers;

(3) Assure that:

(A) All students graduating from high school are able to demonstrate a defined adequate level of competence in:

(i) English, oral communications, reading, and writing;

(ii) Mathematics skills; and

(iii) Science and social studies disciplines; and

(B) An adequate level of competence evolves over time to higher levels;

(4) Assure that students with disabilities have the opportunity to graduate from high school by demonstrating alternative competencies or alternative levels of competency;

(5) Assure that students who are not on track for high school graduation are identified at a sufficiently early date so that they may be provided an opportunity at a reasonable cost to achieve the minimum levels of competence necessary to graduate from high school;

(6) Recognize that graduating from high school requires that the students, as well as the parents or guardian of the students, work hard and assume appropriate responsibility for the students' success or failure;

(7) Encourage parental involvement in the public schools and in public school activities; and

(8) Recognize that early attention to and correction of student deficiencies are substantially less expensive and more effective than remedial efforts in the later school grades.

(d) The General Assembly recognizes that the supervision of public schools and the execution of the laws regulating the schools shall be vested in such officers as the General Assembly provides.

(e) It is the intent of this subchapter to provide a system of school funding that provides to each public school child in the State of Arkansas an opportunity for an adequate education.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 1.

6-20-2303. Definitions.

As used in this subchapter:

(1) "Additional education categories" means state funds distributed to school districts for alternative learning environments, English-language learners, national school lunch students, and professional development;

(2) "Alternative learning environment" means a student intervention program in compliance with § 6-48-101 et seq. that seeks to eliminate traditional barriers to learning for students;

(3)(A) "Average daily membership" means the total number of days of school attended plus the total number of days absent by students in kindergarten through grade twelve (K-12) during the first three (3) quarters of each school year divided by the number of school days actually taught in the school district during that period of time rounded up to the nearest hundredth.

(B) In those instances in which the average daily membership for fewer than three (3) quarters is specified, the number of days used in the calculation shall be the days in the specified period of time.

(C) As applied to this subchapter, students who may be counted for average daily membership are:

(i) Students who:

(a) Reside within the boundaries of the school district;

(b) Are enrolled in a public school operated by the school district; and

(c) Are enrolled in a curriculum that fulfills the requirements established by the State Board of Education under the Standards for Accreditation of Arkansas Public Schools and School Districts;

(ii)(a) Students who reside within the boundaries of the school district but due to geographic barriers attend school out-of-state under a tuition agreement.

(b) This subdivision (3)(C)(ii) shall apply even if the students enrolled in an out-of-state school are not enrolled in a curriculum that fulfills the requirements established by the state board under the Standards for Accreditation of Arkansas Public Schools and School Districts;

(iii) Legally transferred students living outside the school district but are:

(a) Attending a public school in the school district under a provision of this Code; and

(b) Are enrolled in a curriculum that fulfills the requirements established by the state board under the Standards for Accreditation of Arkansas Public Schools and School Districts;

(iv) Open-enrollment public charter school students who are enrolled in a curriculum that fulfills the requirements established by the state board under the Standards for Accreditation of Arkansas Public Schools and School Districts;

(v) Students who are eligible to attend and who reside within the boundaries of a school district and are enrolled in the Arkansas National Guard Youth Challenge Program, so long as the students are participants in the program;

(vi) Students who are enrolled in a public school operated by the school district and who have been placed by the Department of Human Services in a licensed or approved foster home, shelter, or facility, or an exempt child welfare agency as defined under § 9-28-402, if:

(a) The student was enrolled in the school district before placement;

(b) The foster home or other placement is located within the boundaries of the school district;

(c) The juvenile division of the circuit court with jurisdiction over a dependency-neglect action concerning the child has issued an order allowing the child to attend school in the school district; or

(d) Enrollment in the school district is necessary to ensure continuity of educational services under § 9-28-113; or

(vii) Transitioning inbound children of military families who have provisionally enrolled in a public school district under the Arkansas Military Child School Transitions Act of 2021, § 6-28-101 et seq.

(D)(i) Except for those circumstances otherwise allowed by law or rule, any student who is absent from daily attendance for more than ten (10) consecutive school days shall be dropped from the attendance records of the school, school district, or open-enrollment public charter school.

(ii) Any student who fails to attend school by the tenth regular school day of the semester shall be retroactively dropped from the first day of the school semester.

(E)(i) Except as otherwise provided by law, a public school district or open-enrollment public charter school that teaches a distance learning course to one (1) or more home-schooled, transitioning inbound child of a military family, or private school student shall be eligible for an amount equal to one-sixth ($\frac{1}{6}$) of the state foundation funding amount per distance learning course for each private school student, transitioning inbound child of a military family, or home-schooled student who is:

(a) Residing within the school district where the public school or open-enrollment public charter school is located;

(b) Physically attending the distance learning course or courses on the campus of the public school district or open-enrollment public charter school; and

(c) Provisionally enrolled in the public school district under the Arkansas Military Child School Transitions Act of 2021, § 6-28-101 et seq., as an inbound child of a military family.

(ii) However, under no circumstances shall a public school district or open-enrollment public charter school be entitled to more than the equivalent of state foundation funding for one (1) average daily membership regardless of the number of distance learning courses received by a particular home-schooled or private school student;

(4) "Child of a military family" means the dependent child of a uniformed services member for whom the local education agency receives public funding and who is enrolled or is pre-enrolled in a public school district under the Arkansas Military Child School Transitions Act of 2021, § 6-28-101 et seq.;

(5) "Classroom teacher" means:

(A) An individual who is required to hold a teaching license from the Division of Elementary and Secondary Education and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual's contracted time;

(B) A guidance counselor; or

(C) A librarian;

(6) "Declining enrollment funding" means the amount of state financial aid provided to an eligible school district from funds made available for the decline in the average daily membership of the school district in

the preceding school year compared to the school year before the preceding school year;

(7) "English-language learners" means students identified by the state board as not proficient in the English language based upon approved English proficiency assessment instruments administered annually in the fall of the current school year, which assessments measure oral, reading, and writing proficiency;

(8) "Foundation funding" means an amount of money specified by the General Assembly for each school year to be expended by school districts for the provision of an adequate education for each student;

(9) "Gifted and talented programs" means academic curricula, courses, and options designed to improve educational opportunities for gifted and talented students pursuant to guidelines adopted by the state board in accordance with § 6-42-106;

(10) "Gifted and talented students" means those students who have been identified as meeting the criteria of the gifted program approval standards established by the state board;

(11) "Legal revenues" means those revenues received or cash balances carried forward by a school district and used to make payments from:

(A)(i) The teachers' salary fund, which means the set of accounts used to record the receipts and expenditures for payment of salaries for licensed personnel, licensed substitutes, tuition, and fringe benefits as defined by § 6-17-908.

(ii) Licensed personnel salaries from federal programs are excluded;

(B) The operating fund, which means the set of accounts used to record the receipts and expenditures for current operating expenses other than those that relate to the purposes set out for other funds; and

(C) The debt service fund, which means the set of accounts used to record local tax receipts and expenditures for the retirement of commercially bonded debt;

(12) "Millage rate" means the millage rate listed in the most recent tax ordinance approved by the county quorum court under the authority of § 14-14-904 for the tax year used in a calculation made under this subchapter;

(13) "Miscellaneous funds" means funds received by a school district:

(A) From federal forest reserves, federal grazing rights, federal mineral rights, federal impact aid, federal flood control, wildlife refuge funds, and severance taxes; and

(B) In lieu of taxes, and local sales and use taxes dedicated to education under § 26-74-201 et seq., § 26-74-301 et seq., § 26-75-301 et seq., and the Local Government Bond Act of 1985, § 14-164-301 et seq.;

(14)(A) "National school lunch students" means those students or the percentage of enrolled students from low socioeconomic backgrounds as indicated by eligibility for free or reduced-price meals under the

National School Lunch Act, 42 U.S.C. § 1751 et seq., as determined on October 1 of each previous school year and submitted to the Division of Elementary and Secondary Education, unless the school district is identified by the Division of Elementary and Secondary Education as participating in the special assistance certification and reimbursement alternative implemented under 42 U.S.C. § 1759a.

(B) If the school district is participating under 42 U.S.C. § 1759a, then for purposes of funding under § 6-20-2305(b), such a school district's annual percentage of national school lunch students shall be equal to the percentage submitted in the base year, which means the last school year for which eligibility determinations were made and in accordance with rules adopted by the state board.

(C) The state board may promulgate rules as necessary to meet the federal requirements under 42 U.S.C. § 1759a in order to enable the school districts and open-enrollment public charter schools to fully participate in federal and state programs;

(15) "Net revenues" means actual revenues generated from ad valorem taxes and distributed to a school district multiplied by the ratio derived from dividing the uniform rate of tax by the total millage rate of the school district;

(16) "Previous year" or "previous school year" means the school year immediately preceding the school year or fiscal year in which funds are allocated;

(17)(A) "Professional development" has the same meaning as the meaning given to the term under § 6-17-704.

(B) Professional development shall result in individual, school-wide, and systemwide improvement designed to ensure that all students demonstrate proficiency in the state academic standards;

(18) "Quarterly average daily membership" means the average daily membership for one (1) quarter of a school year used for calculating student growth funding and as determined by rule established by the Division of Elementary and Secondary Education;

(19) "Revenues" means the proceeds generated from ad valorem taxes and distributed to a school district by a county treasurer from January 1 through December 31 of the calendar year in which the school fiscal year began, including:

(A) The amount of the final distribution of ad valorem taxes to a school district as shown on the final tax settlement of the county under § 26-39-402 for the calendar year in which the school fiscal year began;

(B)(i) Delinquent ad valorem taxes distributed to a school district in the calendar year in which the school fiscal year began.

(ii) Delinquent ad valorem taxes include the penalties and interest that are distributable to a school district under existing law;

(C) The actual amount of homestead tax credit distributed to a school district in the calendar year in which the school fiscal year began;

(D) Excess commissions distributed to a school district in the calendar year in which the school fiscal year began;

(E) Interest earned on any tax funds held in trust and distributed to a school district in the calendar year in which the school fiscal year began;

(F) Ad valorem tax proceeds from land redemptions distributed to a school district in the calendar year in which the school fiscal year began; and

(G) A subtraction of all costs and commissions authorized by law relating to the collection of ad valorem taxes that the county deducted from distributions to a school district in the calendar year in which the school fiscal year began;

(20) "School district" means a geographic area with an elected board of directors that qualifies as a taxing unit for purposes of ad valorem property taxes under Title 26 of the Arkansas Code, which board of directors conducts the daily affairs of public schools pursuant to the supervisory authority vested in it by the General Assembly and this title;

(21) "Secondary vocational area center" means a public secondary vocational institution organized for the specific purpose of educating high school students in specific occupational or vocational areas and serving students from more than one (1) participating school district;

(22) "Special education high-cost occurrences" means individual cases in which special education and related services required by the individualized education program of a particular student with disabilities are unduly expensive, extraordinary, or beyond the routine and normal costs associated with special education and related services provided by a school district and funding is pursuant to rules promulgated by the state board;

(23) "State foundation funding aid" means the amount of state financial aid provided to a school district under § 6-20-2305(a)(1);

(24) "Student growth funding" means the amount of state financial aid provided to each school district from funds made available for the growth in the average daily membership for the school district;

(25) "Teachers of the gifted and talented" means individuals certified by the state board to teach gifted and talented students;

(26) "Technology" means any equipment for instructional purposes that is electronic in nature, including, but not limited to, computer hardware, computer software, internet connectivity, and distance learning; and

(27) "Uniform rate of tax" means a uniform rate of ad valorem property tax of twenty-five (25) mills to be levied on the assessed value of all taxable real, personal, utility, and regulated carrier property in the state to be used solely for the maintenance and operation of the public schools as required by Arkansas Constitution, Article 14, § 3, as amended by Arkansas Constitution, Amendments 11, 40, and 74.

History. Acts 2003 (2nd Ex. Sess.), No. 1397, §§ 1-3; 2009, No. 1450, § 1; 2009, 59, § 1; 2005, No. 2283, § 1; 2007, No. No. 1469, §§ 14, 15; 2011, No. 989, § 73; 272, § 2; 2007, No. 461, § 1; 2007, No. 2011, No. 1118, § 3; 2013, No. 322, §§ 1, 2; 825, § 1; 2009, No. 154, § 1; 2009, No. 2013, No. 557, § 1; 2013, No. 969, § 10;

2013, No. 1138, § 51; 2015, No. 846, §§ 25-27; 2015, No. 1094, § 4; 2019, No. 757, § 48; 2019, No. 910, §§ 1672-1674; 2021, No. 1031, §§ 4-6.

Amendments. The 2019 amendment by No. 757 substituted “high-cost” for “catastrophic” in (21) [now (22)].

The 2019 amendment by No. 910 substituted “Division of Elementary and Sec-

ondary Education” for “Department of Education” throughout the section.

The 2021 amendment added (3)(C)(vii); inserted “transitioning inbound child of a military family” twice in (3)(E)(ii); and added (3)(E)(i)(c), and (27) [now (4)]; and made a stylistic change.

RESEARCH REFERENCES

Ark. L. Rev. Mark A. Fritsche, Case Note: *Kimbrell v. McCleskey*: Rethinking the Constitutional Equality Requirement

for Funding Arkansas’s Public Schools, 67 Ark. L. Rev. 723 (2014).

6-20-2304. Rules — Access to information on legislation.

(a) The State Board of Education shall have the authority, acting pursuant to its rulemaking powers, to adopt rules for the implementation of the provisions of this subchapter.

(b) The state board shall provide access to legislation of the General Assembly concerning public school funding by the following methods:

(1) Including a link to the information on the Division of Elementary and Secondary Education website; and

(2) Requiring the superintendent of each public school district in the state to provide each member of the public school district’s board of directors with:

(A) Information containing the website address where the member can access the specific legislation; or

(B) Upon request, a printed copy of the legislation.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 1; 2007, No. 1587, § 2; 2019, No. 315, § 298; 2019, No. 910, § 1675.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in (a).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b)(1).

6-20-2305. School funding.

(a)(1)(A) For each school year, each school district shall receive state foundation funding aid computed as the foundation funding amount under subdivision (a)(2) of this section less the sum of:

(i) Ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district; and

(ii) An amount of miscellaneous funds of the school district calculated under § 6-20-2308.

(B) The Division of Elementary and Secondary Education shall distribute state foundation funding aid to each school district in twelve (12) monthly payments.

(2)(A) For the 2021-2022 school year, the foundation funding amount is equal to seven thousand one hundred eighty-two dollars (\$7,182)

multiplied by the school district's average daily membership for the previous school year.

(B) For the 2022-2023 school year and each school year thereafter, the foundation funding amount is equal to seven thousand three hundred forty-nine dollars (\$7,349) multiplied by the school district's average daily membership for the previous school year.

(3)(A) A school district that has experienced a decline in average daily membership over the two (2) immediately preceding school years shall receive:

(i) Declining enrollment funding equal to the difference between the average of the two (2) immediately preceding years' average daily memberships and the average daily membership for the previous school year multiplied by the amount of foundation funding set forth in subdivision (a)(2) of this section; and

(ii) Special needs isolated funding under § 6-20-604.

(B) Any funding appropriated and available for declining enrollment funding under subdivision (a)(3)(A)(i) of this section or special needs isolated funding under § 6-20-604 that is not distributed under subdivision (a)(3)(A) of this section shall be prorated and distributed equally per average lost student to school districts that meet the qualifications for both declining enrollment funding under subdivision (a)(3)(A)(i) of this section and special needs isolated funding under § 6-20-604.

(C) No school district shall receive both declining enrollment funding under subdivision (a)(3)(A)(i) of this section and student growth funding under subsection (c) of this section.

(4)(A)(i) Except as provided in subdivisions (a)(4)(C) and (D) of this section, by the end of each school fiscal year, for a school district whose net revenues are less than the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district, the Division of Elementary and Secondary Education shall distribute to the school district the difference between:

(a) The net revenues distributed to the school district as reported under § 26-80-101(b)(4)(A)(ii) for the calendar year immediately preceding the current school year; and

(b) The sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district.

(ii) The Division of Elementary and Secondary Education may distribute to the school district a lesser amount than required under subdivisions (a)(4)(A)(i)(a) and (b) of this section if after the lesser amount is distributed the school district will receive the foundation funding amount under this subsection.

(B) For a school district whose net revenues are more than the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district, the Division of Elementary and Secondary Education, under the authority of § 6-20-2306, shall recoup from the school district an amount equal to the difference between:

(i) The net revenues of the school district; and

(ii) The sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district.

(C) The Division of Elementary and Secondary Education shall not distribute to a school district the funds under subdivision (a)(4)(A)(i) of this section if, regardless of the school district's tax collection rate, the school district's net revenues plus miscellaneous funds calculated under § 6-20-2308 meet or exceed the foundation funding amount set forth in this subsection.

(D)(i) A county treasurer shall submit annually to the Division of Elementary and Secondary Education an annual summary report of all proceeds generated from ad valorem taxes and distributed by the county to a school district for the period beginning January 1 and ending on December 31 of the preceding calendar year to verify the receipt of revenues under § 26-80-101(b)(4)(A)(ii).

(ii)(a) The Division of Elementary and Secondary Education may adjust data appropriately if it determines that irregular distributions by a county treasurer of excess commissions cause a school district's property tax collection rate from the uniform rate of tax to exceed ninety-eight percent (98%).

(b) The Division of Elementary and Secondary Education may adjust the uniform rate of tax from an irregular distribution to an amount not in excess of ninety-eight percent (98%) and apply the excess distribution amount the following school year.

(iii) Evidence of overlapping revenue reporting or irregular distributions shall be provided in the form required by the Division of Elementary and Secondary Education.

(b)(1) In addition to state foundation funding aid, each school district shall receive funding for additional education categories as provided in subdivisions (b)(2)-(6) of this section.

(2)(A)(i) For the 2021-2022 school year, alternative learning environment funding shall be four thousand seven hundred ninety-four dollars (\$4,794) multiplied by the number of identified alternative learning environment students enrolled during the previous school year.

(ii) For the 2022-2023 school year, alternative learning environment funding shall be four thousand eight hundred ninety dollars (\$4,890) multiplied by the number of identified alternative learning environment students enrolled during the previous school year.

(iii) Funding for students in alternative learning environments shall be distributed based on rules promulgated by the State Board of Education.

(B)(i)(a) Beginning with the 2020-2021 school year, secondary vocational area center funding shall be established by a tiered funding structure for distributing vocational center aid for each full-time equivalent student, as defined by the Division of Career and Technical Education.

(b) The vocational center aid under subdivision (b)(2)(B)(i)(a) of this section shall be determined by the Division of Career and

Technical Education, in consultation with the Office of Skills Development, and approved by the State Board of Education.

(ii) The Division of Career and Technical Education shall promulgate rules for:

(a) A tiered system of determining the amount of vocational center aid under subdivision (b)(2)(B)(i) of this section for each secondary vocational area center; and

(b) The method of distribution of the vocational center aid under subdivision (b)(2)(B)(i) of this section.

(3)(A) For the 2021-2022 school year, funding for students who are identified as English-language learners shall be three hundred fifty-nine dollars (\$359) for each identified English-language learner.

(B) Funding for English-language learners shall be distributed to public school districts for students who have been identified as not proficient in the English language based upon a state-approved English proficiency assessment instrument.

(C) Funds allocated for English-language learners to public school districts under this subchapter shall be expended only for eligible activities as identified in current rules promulgated by the State Board of Education and are a supplement to funding for national school lunch students provided in subdivision (b)(4) of this section.

(D) For the 2022-2023 school year and each school year thereafter, funding for students who are identified as English-language learners shall be three hundred sixty-six dollars (\$366) for each identified English-language learner.

(4)(A) Enhanced Student Achievement Funding for each identified national school lunch student shall be as follows:

(i) For a public school district in which ninety percent (90%) or more of the previous school year's enrolled students are national school lunch students, the amount of per-student Enhanced Student Achievement Funding for the 2021-2022 school year is one thousand five hundred ninety-four dollars (\$1,594) and for the 2022-2023 school year is one thousand six hundred thirteen dollars (\$1,613);

(ii) For a public school district in which at least seventy percent (70%) but less than ninety percent (90%) of the previous school year's enrolled students are national school lunch students, the amount of per-student Enhanced Student Achievement Funding for the 2021-2022 school year is one thousand sixty-three dollars (\$1,063) and for the 2022-2023 school year is one thousand seventy-six dollars (\$1,076); and

(iii) For a public school district in which less than seventy percent (70%) of the previous school year's enrolled students are national school lunch students, the amount of per-student Enhanced Student Achievement Funding for the 2021-2022 school year is five hundred thirty-two dollars (\$532) and for the 2022-2023 school year is five hundred thirty-eight dollars (\$538).

(B)(i)(a) Except as provided under subdivision (b)(4)(B)(i)(c) of this section, Enhanced Student Achievement Funding under this subdi-

vision (b)(4) shall be based on the number of national school lunch students for the immediately preceding school year determined under § 6-20-2303(14)(A).

(b) If the public school district is participating under 42 U.S.C. § 1759a, funding under this subdivision (b)(4) is based on the percentage determined in § 6-20-2303(14)(B) multiplied by the number of enrolled students for the immediately preceding school year.

(c) The per-student Enhanced Student Achievement Funding for an open-enrollment public charter school shall be based upon the current school year enrollment:

(1) In the initial year of operation for an open-enrollment public charter school; or

(2) In a year in which an open-enrollment public charter school adds a grade.

(ii)(a) If a public school district will receive in the current school year Enhanced Student Achievement Funding under subdivision (b)(4)(A) of this section that is based on a different per-student amount of Enhanced Student Achievement Funding than the public school district received in the immediately preceding school year, due to a percentage change in national school lunch students, the Division of Elementary and Secondary Education shall adjust the funding to the public school district in a transitional three-year period.

(b) The amount of Enhanced Student Achievement Funding under this subdivision (b)(4)(B)(ii) shall be increased or decreased in each year of a three-year transition period by one-third ($\frac{1}{3}$) of the difference between the amount of Enhanced Student Achievement Funding per student for the current year and the amount of Enhanced Student Achievement Funding per student for the immediately preceding year, adjusted for changes to the funding rates in subdivision (b)(4)(A) of this section.

(iii)(a) The Division of Elementary and Secondary Education shall establish rules to implement the transitional Enhanced Student Achievement Funding provided in subdivision (b)(4)(B)(ii) of this section.

(b) The rules shall include the methods of transition for a school district that:

(1) Experiences a decrease in the amount of Enhanced Student Achievement Funding per student under subdivision (b)(4)(A) of this section;

(2) Experiences an increase in the amount of Enhanced Student Achievement Funding per student under subdivision (b)(4)(A) of this section; or

(3) Within a three-year transition period, experiences both a decrease and an increase in the amount of Enhanced Student Achievement Funding per student under subdivision (b)(4)(A) of this section.

(iv) Under no circumstances shall a public school district be entitled to receive more or less Enhanced Student Achievement

Funding as a result of the transitional process than the public school district is otherwise entitled to receive under this subdivision (b)(4) based on the school district's national school lunch student population as a percentage of the public school district's entire student population.

(v)(a) A public school district that has experienced a significant growth in enrolled students in the previous three (3) years shall receive funding for the expected increase in the number of national school lunch students based on the expected increase in enrolled students based on the levels of funding provided in this section for national school lunch students.

(b) The State Board of Education shall establish rules to be used by the Division of Elementary and Secondary Education to determine:

(1) The amount of growth necessary to qualify as significant growth;

(2) The expected increase in the number of national school lunch students based on the expected increase in enrolled students; and

(3) Which public school districts have experienced a significant growth in enrolled students as necessary to qualify for funding under this subdivision (b)(4)(B)(v).

(c) The Division of Elementary and Secondary Education shall not be required to adjust or fund a public school district's national school lunch students based on the current year's number of national school lunch students enrolled in the public school district or the average growth of students in the public school district.

(C)(i)(a) A school district shall expend funds allocated under this subdivision (b)(4) in accordance with the rules developed by the Division of Elementary and Secondary Education to provide the following supports and resources:

(1) If the school district meets the teacher compensation requirements according to the minimum salary schedule under § 6-17-2403 for teachers serving in positions required by the Standards for Accreditation of Arkansas Public Schools and School Districts without using funds provided under this subdivision (b)(4):

(A) The hiring of additional teachers for core academic subject areas, as identified in the Division of Elementary and Secondary Education Rules Governing the Arkansas Qualified Teacher Requirements, that are not required by the Standards for Accreditation of Arkansas Public Schools and School Districts;

(B) The enhancement of teacher salaries for recruitment and retention purposes;

(C) Obtaining additional compensation for teachers who assume identified leadership roles; or

(D) Additional compensation for teachers who assume additional responsibilities that support student academic achievement;

(2) Academic supports and interventions, including without limitation curriculum specialists, facilitators, tutors, dyslexia interventions, and Response to Intervention;

(3) Social, emotional, and behavioral supports;

(4) Physical and mental health resources, including without limitation personnel;

(5) Early intervention resources, including without limitation pre-kindergarten programs, school tutoring programs that take place before or after school, and early literacy interventions; and

(6) Access to postsecondary opportunities, including without limitation access to career coaches, concurrent credit courses, college-entrance support, and career-readiness support.

(b)(1) By July 1, 2022, each public school district shall submit a three-year enhanced student achievement plan to the Division of Elementary and Secondary Education describing the school district's intended and implemented strategies to enhance student achievement and how enhanced student achievement funds will be used to support the strategies of the school district as permitted by this subdivision (b)(4) and rules promulgated by the State Board of Education.

(2) A school district shall review annually the school district's enhanced student achievement plan and shall review the progress of the school district's enhanced student achievement plan.

(3) The enhanced student achievement plan of a school district shall be updated as necessary by the school district, and amendments to the enhanced student achievement plan shall be submitted annually to the Division of Elementary and Secondary Education with the annual budget of the school district.

(4) The Division of Elementary and Secondary Education shall monitor the implementation and progress of the enhanced student achievement plan of a school district.

(5) A school district that does not demonstrate progress toward the goals of the enhanced student achievement plan of the school district for three (3) consecutive years may be subject to one (1) or more of the following:

(A) Additional monitoring by the Division of Secondary and Elementary Education;

(B) An increased level of support as provided in § 6-15-2913; or

(C) A corrective action plan that shall be developed in collaboration with the Division of Elementary and Secondary Education.

(c) The list of approved programs established before July 24, 2019, by the State Board of Education under subdivision (b)(4)(C)(i)(a) of this section shall expire on June 30, 2022.

(d) The State Board of Education shall promulgate rules for the implementation of this subdivision (b)(4)(C)(i) that shall include without limitation:

(1) The process for submitting an enhanced student achievement plan;

(2) The process for monitoring the expenditure of funds allocated under this subdivision (b)(4); and

(3) The specific requirements, qualifications, and criteria for allowable supports and resources.

(ii)(a) A school district shall budget one hundred percent (100%) of funds allocated under this subdivision (b)(4) each year to provide the supports and resources described in subdivision (b)(4)(C)(i)(a) of this section.

(b) If a school district intends to transfer funds allocated under this subdivision (b)(4) to other programs, the school district shall provide justification for the transfer of funds to the Division of Elementary and Secondary Education.

(iii) Notwithstanding any other provision of law, if the Division of Elementary and Secondary Education determines that a school district's expenditure of funds allocated under this subdivision (b)(4) would result in the school district's losing funding under any federal law, then the funds allocated to a school district under this subdivision (b)(4) may be expended for other academic programs or salaries.

(iv) The Division of Elementary and Secondary Education may direct that a school district expend available funds on specified programs under subdivision (b)(4)(C)(i) of this section.

(v) The Division of Elementary and Secondary Education shall develop appropriate forms for use by school districts to comply with this subdivision (b)(4)(C) and the rules of the State Board of Education.

(D)(i) The Division of Elementary and Secondary Education shall provide a report on the progress of school districts in meeting plan goals to the House Committee on Education and the Senate Committee on Education by October 1 of each odd-numbered year, beginning in 2023.

(ii) The report shall include information broken down by category as described in subdivision (b)(4)(A) of this section on:

(a) How school districts are spending funds provided under this subdivision (b)(4), including specific programs utilized by school districts;

(b) The amount of funds transferred to another categorical fund, including an explanation of why the funds were transferred; and

(c) The analysis of student achievement data evaluated in student achievement growth models as described in § 6-15-2908 shall be expanded to include the evaluation of the best estimates of classroom, school, and school district effects on enhancing student achievement, in addition to the examination of student progress based on established value-added longitudinal calculations.

(iii) The report shall be included in the General Assembly's biennial adequacy study to evaluate the adequacy of education in the state.

(E)(i) By June 30 of each year, a school district shall spend a minimum of eighty-five percent (85%) of the school district's annual funding allocation as provided under subdivision (b)(4)(C) of this section.

(ii) A school district that on June 30 of any year has an enhanced student achievement funding balance in excess of fifteen percent

(15%) of the school district's current year enhanced student achievement funding allocation shall reduce its total enhanced student achievement funding balance by at least ten percent (10%) in each year that follows so that by June 30 of each year, the school district has a balance of no more than fifteen percent (15%) of the school district's current year enhanced student achievement funding allocation.

(iii)(a) Under an unusual and limited circumstance, including without limitation an increase in one-time funds or an unexpected decrease in school district revenues during a given year, a school district may request that the Division of Elementary and Secondary Education waive the requirements of this subdivision (b)(4)(E).

(b) A school district seeking a waiver shall file a waiver request with the Commissioner of Elementary and Secondary Education, accompanied by a resolution adopted by the school district's board of directors, describing the unusual and limited circumstances.

(iv) The commissioner may grant a waiver request under this subdivision (b)(4)(E) for up to one (1) year if the commissioner finds that the request is necessary based upon the unusual and limited circumstances.

(v)(a) The Division of Elementary and Secondary Education shall monitor on a yearly basis each school district's compliance with the requirements of this subdivision (b)(4)(E).

(b) If a school district fails to comply with the requirements of this subdivision (b)(4)(E) during a school year, the Division of Elementary and Secondary Education may in the following school year withhold from that school district's national school lunch state categorical funding allocation an amount equal to the amount required to be spent by the school district in order to be in compliance with the requirements of this subdivision (b)(4)(E).

(c) The Division of Elementary and Secondary Education may redistribute amounts withheld under this subdivision (b)(4)(E) to other school districts entitled to receive national school lunch state categorical funding allocations.

(5)(A) For each school year, professional development funding shall be equal to an amount of up to forty dollars and eighty cents (\$40.80) multiplied by the school district's previous school year average daily membership.

(B) Funding for professional development for teachers in Arkansas public schools required under the Teacher Excellence and Support System, § 6-17-2801 et seq., other law or rule, or by the school district shall be used for professional development activities and materials that:

- (i) Improve the knowledge, skills, and effectiveness of teachers;
- (ii) Address the knowledge and skills of administrators and para-professionals concerning effective instructional strategies, methods, and skills;
- (iii) Lead to improved student academic achievement; and

(iv) Provide training for school bus drivers as outlined in rules promulgated by the Commission for Arkansas Public School Academic Facilities and Transportation.

(C)(i) For the 2021-2022 school year, additional funding up to fourteen million five hundred thousand dollars (\$14,500,000) and for the 2022-2023 school year, additional funding up to sixteen million five hundred thousand dollars (\$16,500,000), provided for professional development above the amount in subdivision (b)(5)(A) of this section shall be used by the Division of Elementary and Secondary Education for the development and administration of professional learning communities for the benefit of public school districts.

(ii)(a) The Division of Elementary and Secondary Education shall promulgate rules to administer the additional professional development funding under subdivision (b)(5)(C)(i) of this section.

(b) The Division of Elementary and Secondary Education may partner with or choose a person, firm, corporation, or education service cooperative to provide the knowledge, skills, experience, and expertise for the development of a research-based process for the implementation of professional learning communities.

(6)(A)(i) Beginning with the 2021-2022 school year, for school districts identified by the Division of Elementary and Secondary Education as having an average annual teacher salary below the statewide target average annual salary, teacher salary equalization funding shall be equal to one hundred eighty-five dollars (\$185) multiplied by the average daily membership of the school district for the previous school year.

(ii) For the 2021-2022 and 2022-2023 school years, the statewide target average annual salary shall be fifty-one thousand eight hundred twenty-two dollars (\$51,822).

(iii) The House Committee on Education and the Senate Committee on Education shall set jointly the statewide target average annual salary for the 2023-2024 and 2024-2025 school years, and each biennium thereafter, as part of the adequacy review process required under § 10-3-2102.

(B)(i) On or before October 31 of each year, the Division of Elementary and Secondary Education shall determine if a school district is eligible to receive teacher salary equalization funds by reviewing certified salary data submitted by the school district for the immediately preceding fiscal year.

(ii) A school district with an average annual teacher salary meeting or exceeding the statewide target average annual teacher salary for the year is ineligible to receive teacher salary equalization funds exceeding the amount received by the school district in the previous year.

(iii) A school district that receives funds from the Educator Compensation Reform Fund is ineligible to receive teacher salary equalization funds for the year in which the school district receives funds from the Educator Compensation Reform Fund.

(iv) A school district shall continue to receive teacher salary equalization funds in the same amount as the preceding fiscal year in addition to the amount eligible for the current fiscal year.

(C) Teacher salary equalization funding provided to a school district under this subchapter shall be expended only for teacher salaries and benefits.

(c) Isolated funding under § 6-20-601, student growth funding, and special education high-cost occurrences funding shall be funded as follows:

(1) Isolated funding and special education high-cost occurrences funding shall be allocated and funded to school districts in a line item appropriation within the Public School Fund pursuant to law or rules promulgated by the State Board of Education; and

(2) Student growth funding is calculated as the sum of the following amounts:

(A) One-fourth ($\frac{1}{4}$) of the per-student foundation funding for the school district under subdivision (a)(2) of this section multiplied by the increase, if any, of each of the following:

(i) The school district's quarterly average daily membership for the fourth quarter of the previous school year over the average daily membership in the year before the fourth quarter;

(ii) The school district's quarterly average daily membership for the first quarter of the current school year over the average daily membership of the previous school year;

(iii) The school district's quarterly average daily membership for the second quarter of the current year over the average daily membership of the previous school year; and

(iv) The school district's quarterly average daily membership for the third quarter of the current school year over the average daily membership of the previous school year;

(B) Excluding any increase resulting solely from consolidation or annexation with another school district; and

(C) If net revenues minus any recoupment under subdivision (a)(4)(B) of this section plus miscellaneous funds calculated under § 6-20-2308(b)(1)(A) exceed the foundation funding amount, a school district shall be eligible to receive the amount of calculated student growth funding that exceeds net revenues minus any recoupment under subdivision (a)(4)(B) of this section plus miscellaneous funds calculated under § 6-20-2308(b)(1)(A).

(d) The sum of subsections (a)-(c) of this section shall be the total state aid allocated and funded to school districts pursuant to this section.

(e)(1) Funds distributed to school districts under subsection (b) of this section shall be expended on:

(A) The students within each category of special needs for which the funds were allocated;

(B) Any students within any category of special needs under subsection (b) of this section as permitted by rules issued by the State Board of Education; or

(C) If the Division of Elementary and Secondary Education determines that a school district's expenditure of funds allocated under subsection (b) of this section would result in the school district's losing funding under any federal law, then the funds allocated to a school district under subsection (b) of this section may be expended for other academic programs or salaries as permitted by the Division of Elementary and Secondary Education.

(2) On June 30, 2012, and on June 30 of each school year thereafter, if the total aggregate balance of all state categorical fund sources exceeds twenty percent (20%) of the school district's total aggregate annual state categorical fund allocations for the current school year, the school district shall reduce the total balance by ten percent (10%) each year until the school district's June 30 balance of aggregate annual categorical fund sources is twenty percent (20%) or less of the total aggregate annual state categorical fund allocations for the current school year.

(3) A school district may transfer funds received from any categorical fund source to another categorical fund source.

(4)(A) The Division of Elementary and Secondary Education shall monitor on a yearly basis each school district's compliance with the requirements of this subsection.

(B) If a school district fails to comply with the requirements of this subsection during a school year, the Division of Elementary and Secondary Education may in the following school year withhold from that school district's categorical funding allocation an amount equal to the amount required to be spent by the school district in order to be in compliance with the requirements of this subsection.

(C) The Division of Elementary and Secondary Education may redistribute amounts withheld under this subsection to other school districts entitled to receive categorical funding allocations.

(f) In order for a school district to be entitled to state funds under the provisions of this subchapter, the school district shall satisfy the following requirements:

(1) Expenditures for any fiscal year shall not exceed the legal revenues for that fiscal year;

(2) The school district shall maintain records and make reports relative to attendance, receipts, and disbursements and other reports as required by the Division of Elementary and Secondary Education for the administration of this subchapter;

(3) The school district shall maintain proper financial records in accordance with the state's school accounting manual and rules promulgated by the State Board of Education;

(4)(A) Each school year the school district shall file with the State Board of Education a salary schedule for its licensed employees that recognizes a minimum level of training and experience.

(B) The schedule shall reflect the actual pay practices of the school district, including all fringe benefits.

(C) Salary increments for experience or education, or both, shall be identified on the schedule; and

(5)(A) All pupil attendance records shall be kept in their original form and shall be public records.

(B) The records shall be kept according to law and rules on paper or electronic forms either furnished or approved by the Division of Elementary and Secondary Education.

(C) After the school term has ended, the superintendent of the school district shall:

(i) Keep the original attendance records on file for a period of three (3) school years; and

(ii) Make the original attendance records available for monitoring purposes during any day of the school term for the teachers or other persons designated to keep attendance.

(g)(1) By the end of each school year, each school district shall submit to the Division of Elementary and Secondary Education a report listing each program upon which funds allocated under subsection (b) of this section were expended, the amount expended, and any other information required by the Division of Elementary and Secondary Education.

(2) The Division of Elementary and Secondary Education shall develop appropriate reporting forms for use by school districts.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 1; 2005, No. 2283, § 2; 2006 (1st Ex. Sess.), No. 19, § 3; 2006 (1st Ex. Sess.), No. 21, § 1; 2006 (1st Ex. Sess.), No. 30, § 1; 2006 (1st Ex. Sess.), No. 31, § 1; 2007, No. 272, §§ 3, 4, 6; 2007, No. 273, § 1; 2007, No. 461, §§ 2, 3; 2007, No. 811, § 2; 2007, No. 1590, §§ 1, 2; 2009, No. 965, § 1; 2009, No. 1186, § 1; 2009, No. 1369, § 1; 2009, No. 1397, § 4; 2009, No. 1469, §§ 16, 17; 2009, No. 1474, § 1; 2009, No. 1501, § 1; 2011, No. 633, § 1; 2011, No. 981, § 12; 2011, No. 993, § 2; 2011, 1039, §§ 2-4; 2011, No. 1209, § 9; 2011, No. 1220, §§ 1-4; 2013, No. 322, § 3; 2013, No. 420, § 6; 2013, No. 557, § 2; 2013, No. 1138, § 52; 2013, No. 1467, §§ 1-5; 2013, No. 1473, § 1; 2013 (1st Ex. Sess.), No. 2, § 4; 2015, No. 846, § 28; 2015, No. 994, § 1; 2015, No. 1248, §§ 1-5; 2017, No. 427, § 1; 2017, No. 741, §§ 6, 7; 2017, No. 743, §§ 1-5; 2017, No. 936, §§ 51-53; 2019, No. 179, § 2; 2019, No. 315, §§ 299, 300; 2019, No. 532, § 1; 2019, No. 667, §§ 1-4; 2019, No. 757, §§ 49, 50; 2019, No. 910, §§ 1676-1694; 2019, No. 1082, § 4; 2019, No. 1083, § 3; 2021, No. 322, §§ 1-6; 2021, No. 544, § 50; 2021, No. 545, § 7; 2021, No. 614, §§ 1-5; 2021, No. 679, §§ 2, 3; 2021, No. 680, §§ 2, 3; 2021, No. 909, § 1.

A.C.R.C. Notes. Former § 6-20-2305(b)(4)(C)(i)(b), referred to in subdivision (b)(4)(C)(ix) of this section, was re-

pealed by Acts 2007, No. 1590, § 2. Former § 6-20-2305(b)(4)(C)(i)(b) read as follows: “(b) Through June 30, 2007, the State Board of Education shall approve the use of funds by a school district to supplement salaries for classroom teachers only under the following conditions:

“(1) The school district meets the minimum teacher salary schedule in § 6-17-2403 without using funds provided under this subdivision (b)(4); and

“(2) The school district is permitted to use funds provided under this subdivision (b)(4) to supplement salaries for classroom teachers only to the extent the school district was using funds provided under this subdivision (b)(4) to supplement salaries for classroom teachers as of January 1, 2006.”

Acts 2019, No. 179, § 1, provided: “Legislative intent. It is the intent of the General Assembly that:

“(1) Funding for secondary vocational area centers should reflect a number of fast-changing factors, such as regional and statewide workforce priorities, as well as demand on an industry-by-industry basis;

“(2) The definition of ‘full time equivalent students’ and the funding level tied to the number of full time equivalent students be aligned with a regulatory system that allows the Department of Career Education to monitor and adjust these

terms in response to the changing business environment;

“(3) The current funding structure of three thousand two hundred fifty dollars (\$3,250) per full time equivalent student be discontinued in favor of establishing a tiered funding structure for distributing vocational center aid determined by the Department of Career Education and approved by the Career Education and Workforce Development Board; and

“(4) A tiered funding structure for distributing vocational center aid determined by the Department of Career Education and approved by the Career Education and Workforce Development Board take into account the different funding needs and costs of individual programs of study or the workforce needs of the State of Arkansas.”

Identical Acts 2021, Nos. 679 and 680, § 1, provided: “Legislative findings. The General Assembly finds that:

“(1) In *Lake View Sch. Dist. No. 25 v. Huckabee*, 351 Ark. 31, (2002), the Supreme Court identified the following as two (2) historical deficiencies of education funding:

“(A) Teacher salaries that are not comparable to surrounding states; and

“(B) Disparities in teacher salaries within this state;

“(2) The Bureau of Legislative Research reported that the average teacher salary in this state for fiscal year 2020 was forty-nine thousand eight hundred twenty-two dollars (\$49,822) as published by the National Education Association, which is an increase of three hundred eighty-four dollars (\$384) from forty-nine thousand four hundred thirty-eight dollars (\$49,438) in fiscal year 2019;

“(3) In the 2020 adequacy study, the teacher salary report presented to the House Committee on Education and the Senate Committee on Education reported data indicating that Arkansas is not keeping pace with surrounding and Southern Regional Educational Board member states;

“(4) In 2019, the gap between the highest average salary within the state of sixty thousand nine hundred sixty-three dollars (\$60,963) and the lowest average salary of thirty-nine thousand five hundred seventy-eight dollars (\$39,578) was twenty-one thousand three hundred eighty-five dollars (\$21,385);

“(5) In surveys of principals and superintendents, the Bureau of Legislative Research reported difficulty in offering competitive salaries as the most significant barrier to teacher recruitment and retention; and

“(6) Difficulty in offering competitive salaries continues to be a barrier to teacher recruitment and retention despite increases to the minimum teacher salaries each year since 2015.”

Amendments. The 2017 amendment by No. 427 added (b)(5)(C).

The 2017 amendment by No. 741 substituted “twelve (12) monthly payments” for “eleven (11) equal monthly payments” in (a)(1)(B); and rewrote (c)(2).

The 2017 amendment by No. 743, in (a)(2)(A), substituted “2017-2018” for “2015-2016” and “six thousand seven hundred thirteen dollars (\$6,713)” for “six thousand five hundred eighty-four dollars (\$6,584)”; in (a)(2)(B), substituted “2018-2019” for “2016-2017” and “six thousand seven hundred eighty-one dollars (\$6,781)” for “six thousand six hundred forty-six dollars (\$6,646)”; deleted former (b)(2)(A)(ii) and redesignated former (b)(2)(A)(iii) as present (b)(2)(A)(ii); in (b)(2)(A)(i), substituted “each” for “the 2015-2016” and “four thousand six hundred forty dollars (\$4,640)” for “four thousand four hundred seventy-one dollars (\$4,471)”; deleted former (b)(3)(B) and redesignated the remaining subdivisions accordingly; in (b)(3)(A), substituted “each” for “the 2015-2016” and “three hundred thirty-eight dollars (\$338)” for “three hundred twenty-four dollars (\$324)”; deleted former (b)(4)(A)(i)(a) and the designation for (b)(4)(A)(i)(b); substituted “for each” for “For the 2016-2017” in (b)(4)(A)(i); deleted former (b)(4)(A)(ii)(a) and the designation for (b)(4)(A)(ii)(b); in (b)(4)(A)(ii), substituted “a school district” for “school districts” and “for each” for “For the 2016-2017”; deleted former (b)(4)(A)(iii)(a) and the designation for (b)(4)(A)(iii)(b); in (b)(4)(A)(iii), substituted “a school district” for “school districts” and “for each” for “For the 2016-2017”; and substituted “each school year” for “the 2015-2016 and 2016-2017 school years” in (b)(5)(A).

The 2017 amendment by No. 936 substituted “school-level” for “comprehensive school” in (b)(4)(C)(iv)(a), (b)(4)(C)(ix)(b)(5), (b)(4)(C)(ix)(b)(6), and

(b)(4)(C)(ix)(b)(7); and substituted “§ 6-15-2908” for “§ 6-15-435” in (b)(4)(E)(ii)(c).

The 2019 amendment by No. 179 rewrote (b)(2)(B).

The 2019 amendment by No. 315 substituted “rules” for “regulations” in (f)(3) and (f)(5)(B).

The 2019 amendment by No. 532, in the introductory language (b)(4)(C)(i)(b), substituted “for the programs” for “only on the programs” and substituted “including without limitation” for “which shall include, but are not limited to”; in (b)(4)(C)(i)(b)(2), inserted “without limitation”; rewrote (b)(4)(C)(i)(b)(8) and (b)(4)(C)(i)(b)(14); added (b)(4)(C)(i)(b)(18)-(19); deleted former (b)(4)(C)(ii)-(iii); redesignated former (b)(4)(C)(iv)(a) as (b)(4)(C)(ii); in (b)(4)(C)(ii), substituted “plan required under § 6-15-2914” for “school level improvement plan”, deleted “has met the requirements of subdivisions (b)(4)(C)(ii) and (iii) of this section” following “is provided”, substituted “state categorical funds” for “student categorical funds”, and added “for up to two (2) years”; deleted former (b)(4)(C)(iv)(b) and (b)(4)(C)(v); redesignated former (b)(4)(C)(vi)-(viii) as (b)(4)(C)(iii)-(v); deleted (b)(4)(C)(ix); redesignated former (b)(4)(C)(x) as (b)(4)(C)(vi); deleted (b)(4)(C)(xi); redesignated former (b)(4)(C)(xii) as (b)(4)(C)(vii); and updated an internal reference and made stylistic changes.

The 2019 amendment by No. 667, in (a)(2)(A), substituted “2019-2020” for “2017-2018”, and “six thousand eight hundred ninety-nine dollars (\$6,899)” for “six thousand seven hundred thirteen dollars (\$6,713)”; in (a)(2)(B), substituted “2020-2021” for “2018-2019” and “seven thousand eighteen dollars (\$7,018)” for “six thousand seven hundred eighty-one dollars (\$6,781)”; in (b)(2)(A)(i), substituted “four thousand seven hundred dollars (\$4,700)” for “four thousand six hundred forty dollars (\$4,640)”; in (b)(3)(A), substituted “the 2019-2020” for “each”, and “three hundred forty-five dollars (\$345)” for “three hundred thirty-eight dollars (\$338)”; inserted “public” in (b)(3)(B) and (b)(3)(C); added (b)(3)(D); in (b)(5)(A), substituted “the 2019-2020” for “each”; inserted (b)(5)(B) and redesignated former (b)(5)(B) and (b)(5)(C) as (b)(5)(C) and (b)(5)(D); in (b)(5)(D)(i), added “For the 2019-2020 and 2020-2021 school years”,

inserted “up to twelve million five hundred thousand dollars (\$12,500,000)”, inserted “and (B)”, and substituted “subdivisions” for “subdivision”; and updated an internal reference.

The 2019 amendment by No. 757 substituted “school-level improvement plan” for “school improvement plan” in (b)(4)(C)(iii) [now deleted]; and substituted “special education high-cost occurrences” for “special education-catastrophic occurrences” in the introductory language of (c) and in (c)(1).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” throughout the section; substituted “Division of Career and Technical Education” for “Department of Career Education” in (b)(4)(C)(i)(b)(16); and substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (b)(4)(C)(iv)(a) [now (b)(4)(C)(ii)].

The 2019 amendment by No. 1082 added (b)(4)(C)(i)(c).

The 2019 amendment by No. 1083 substituted “Enhanced Student Achievement Funding” for “national school lunch state categorical funding” and “public school district” for “school district” throughout (b)(4)(A) and (b)(4)(B).

The 2021 amendment by No. 322 rewrote (b)(4)(C)(i) and (b)(4)(C)(ii); repealed former (b)(4)(C)(v) and (b)(4)(C)(vi); redesignated former (b)(4)(C)(vii) as (b)(4)(C)(v); in (b)(4)(C)(v), deleted “promulgate rules and” preceding “develop appropriate” and “reporting” preceding “forms” and added “and the rules of the State Board of Education”; deleted former (b)(4)(D) and redesignated former (b)(4)(E) and (F) as (b)(4)(D) and (E); and rewrote present (b)(4)(D)(i) and (ii) and (b)(4)(E)(i) and (ii).

The 2021 amendment by No. 544 substituted “in the year before the fourth quarter” for “of the previous school year” in (c)(2)(A)(i).

The 2021 amendment by No. 545, in (b)(2)(B)(i)(b), inserted “in consultation with the Office of Skills Development”, and substituted “State Board of Education” for “Career Education and Workforce Development Board”.

The 2021 amendment by No. 614 rewrote (a)(2); rewrote (b)(2)(A)(i), inserted (b)(2)(A)(ii), and redesignated former

(b)(2)(A)(ii) as (b)(2)(A)(iii); rewrote (b)(3)(A), (b)(3)(D), and (b)(4)(A); rewrote (b)(5)(A); deleted former (b)(5)(B), and redesignated the remaining subdivisions accordingly; rewrote present (b)(5)(C)(i); and updated an internal reference.

The 2021 amendment by identical acts Nos. 679 and 680 substituted “subdivi-

sions (b)(2)-(6)” for “subdivisions (b)(2)-(5)” in (b)(1); and added (b)(6).

The 2021 amendment by No. 909 substituted “and” for “or” following “of this section” at the end of (a)(3)(A)(i).

Meaning of “this act”. Acts 2019, No. 1082, codified as §§ 6-15-2913, 6-15-2914, 6-20-2305.

RESEARCH REFERENCES

Ark. L. Rev. T.W. Brown, Recent Developments, School Funding - Arkansas Department of Education Not Permitted To Recoup Excess Tax Revenues from Wealthy School Districts, 66 Ark. L. Rev. 347 (2013).

Mark A. Fritsche, Case Note: Kimbrell v. McCleskey: Rethinking the Constitutional Equality Requirement for Funding

Arkansas’s Public Schools, 67 Ark. L. Rev. 723 (2014).

U. Ark. Little Rock L. Rev. Morgan Craven, Paula Johnson, & Terrence Wilson, Eradicating the School-to-Prison Pipeline Through a Comprehensive Approach to School Equity, 42 U. Ark. Little Rock L. Rev. 703 (2020).

CASE NOTES

Illegal Exaction.

Summary judgment was properly awarded to the Arkansas Governor and state officials in an action claiming that they retained and unlawfully diverted funds derived from property taxes and allocated to the Arkansas Educational Excellence Trust Fund (EETF) because ap-

pellants did not show how the state used EETF funds to supplant its foundation funding aid contribution to reach the amount per student established pursuant to the statute. *Fort Smith Sch. Dist. v. Beebe*, 2009 Ark. 333, 322 S.W.3d 1 (2009).

Cited: *Furnas v. Kimbrell*, 2015 Ark. 148, 464 S.W.3d 116 (2015).

6-20-2306. Division of Elementary and Secondary Education to provide funding — Adjustments for overpayments.

(a) If the Division of Elementary and Secondary Education determines that an overpayment has been made to a school district under any appropriation authorized by this subchapter, the division may:

- (1) Withhold the overpayment from subsequent state funding;
- (2) Transfer the amount withheld for the overpayment to the line item appropriation from which the overpayment was initially made; or
- (3) Request a refund from the school district in the amount of the overpayment.

(b) The school district shall comply as directed by the division.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 1; 2009, No. 376, § 43; 2019, No. 910, § 1695.

Amendments. The 2019 amendment substituted “Division of Elementary and

Secondary Education” for “Department of Education” in the section heading and in the introductory language of (a); and substituted “division” for “department” in the introductory language of (a) and in (b).

CASE NOTES

Excess Funds.

Education commissioner, a department of education, and a state treasurer were not authorized to distribute excess funds to another school district under § 26-80-101(b)(1)(B); the retention of revenue in excess of foundation funding resulted in

variations, which were contemplated by Ark. Const. art. 14, § 3(a). Moreover, the excess funds did not constitute an overpayment, such that the remedies in this section could have been implemented. *Kimbrell v. McCleskey*, 2012 Ark. 443, 424 S.W.3d 844 (2012).

6-20-2307. Property tax report.

In order to provide relevant information to the General Assembly impacting the funding of public education, upon approval of the Legislative Joint Auditing Committee, Arkansas Legislative Audit shall prepare a report regarding the assessment and collection of property taxes.

History. Acts 2007, No. 272, § 5.

6-20-2308. Calculation of miscellaneous funds.

(a) For the purpose of making an initial calculation of state foundation funding aid, the Division of Elementary and Secondary Education shall calculate the miscellaneous funds of a school district as:

(1) The aggregate amount of miscellaneous funds a school district received in the calendar year immediately preceding the beginning of the current school fiscal year; multiplied by

(2) The ratio of the uniform rate of tax to the school district's total millage rate in effect as of January 1 of the calendar year in which the school district received the miscellaneous funds.

(b)(1) Except as provided under subdivision (b)(2) of this section, for a school district that receives state foundation funding aid and receives an aggregate amount of miscellaneous funds during the calendar year in which the current school fiscal year began that is less than the aggregate amount of miscellaneous funds the school district received in the calendar year immediately preceding the beginning of the current school fiscal year, by the end of the school fiscal year the division shall distribute to the school district an amount equal to the difference between:

(A) The amount of miscellaneous funds calculated for the calendar year in which the current school fiscal year began; and

(B) The amount of miscellaneous funds calculated for the calendar year immediately preceding the beginning of the current school fiscal year.

(2) The sum of the following amounts shall not exceed the foundation funding amount under § 6-20-2305(a)(2):

(A) State foundation funding aid for the current school fiscal year;

(B) The school district's miscellaneous funds calculated for the calendar year in which the school fiscal year began;

(C) Ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district;

(D) A distribution under subdivision (b)(1) of this section; and

(E) A distribution or recoupment under § 6-20-2305(a)(4).

(c)(1) Beginning with the 2014-2015 school fiscal year, the division shall recoup an overpayment of state funding under the authority provided by § 6-20-2306 for a school district that receives:

(A) State foundation funding aid; and

(B) An aggregate amount of miscellaneous funds for the calendar year in which the current school fiscal year began that is greater than the aggregate amount of miscellaneous funds it received in the calendar year immediately preceding the beginning of the current school fiscal year.

(2) The division shall recoup from the school district an amount equal to the difference between:

(A) The amount of miscellaneous funds calculated for the calendar year in which the current school fiscal year began; and

(B) The amount of miscellaneous funds calculated for the calendar year immediately preceding the beginning of the current school fiscal year.

(3) A recoupment from a school district under this subsection shall not exceed the amount of state foundation funding aid distributed to the school district for the school fiscal year on which the recoupment is based.

History. Acts 2013, No. 322, § 4; 2019, No. 910, §§ 1696-1699.

Amendments. The 2019 amendment substituted "Division of Elementary and

Secondary Education" for "Department of Education" in the introductory language of (a); and substituted "division" for "department" throughout the section.

6-20-2309. Enhanced transportation funding.

(a) For the 2021-2022 school year, in addition to the foundation funding provided to a school district under § 6-20-2305(a)(2), the Division of Elementary and Secondary Education shall distribute enhanced transportation funding to school districts each school year in the following amounts:

101000	DEWITT SCHOOL DISTRICT	\$11,369
104000	STUTTGART SCHOOL DISTRICT	\$0
201000	CROSSETT SCHOOL DISTRICT	\$0
203000	HAMBURG SCHOOL DISTRICT	\$61,997
302000	COTTER SCHOOL DISTRICT	\$0
303000	MOUNTAIN HOME SCHOOL DISTRICT	\$34,688
304000	NORFORK SCHOOL DISTRICT	\$77,564
401000	BENTONVILLE SCHOOL DISTRICT	\$0
402000	DECATUR SCHOOL DISTRICT	\$0
403000	GENTRY SCHOOL DISTRICT	\$1,720
404000	GRAVETTE SCHOOL DISTRICT	\$25,822

405000	ROGERS SCHOOL DISTRICT	\$0
406000	SILOAM SPRINGS SCHOOL DISTRICT	\$0
407000	PEA RIDGE SCHOOL DISTRICT	\$0
501000	ALPENA SCHOOL DISTRICT	\$39,370
502000	BERGMAN SCHOOL DISTRICT	\$11,684
503000	HARRISON SCHOOL DISTRICT	\$16,713
504000	OMAHA SCHOOL DISTRICT	\$47,890
505000	VALLEY SPRINGS SCHOOL DISTRICT	\$16,660
506000	LEAD HILL SCHOOL DISTRICT	\$127,727
601000	HERMITAGE SCHOOL DISTRICT	\$67,127
602000	WARREN SCHOOL DISTRICT	\$0
701000	HAMPTON SCHOOL DISTRICT	\$49,758
801000	BERRYVILLE SCHOOL DISTRICT	\$24,187
802000	EUREKA SPRINGS SCHOOL DISTRICT	\$0
803000	GREEN FOREST SCHOOL DISTRICT	\$0
901000	DERMOTT SCHOOL DISTRICT	\$13,888
903000	LAKESIDE SCHOOL DISTRICT (CHICOT)	\$110,531
1002000	ARKADELPHIA SCHOOL DISTRICT	\$0
1003000	GURDON SCHOOL DISTRICT	\$59,014
1101000	CORNING SCHOOL DISTRICT	\$9,754
1104000	PIGGOTT SCHOOL DISTRICT	\$23,565
1106000	RECTOR SCHOOL DISTRICT	\$9,931
1201000	CONCORD SCHOOL DISTRICT	\$54,074
1202000	HEBER SPRINGS SCHOOL DISTRICT	\$0
1203000	QUITMAN SCHOOL DISTRICT	\$40,357
1204000	WEST SIDE SCHOOL DISTRICT (CLEBURNE)	\$0
1304000	WOODLAWN SCHOOL DISTRICT	\$44,737
1305000	CLEVELAND COUNTY SCHOOL DISTRICT	\$81,880
1402000	MAGNOLIA SCHOOL DISTRICT	\$44,012
1408000	EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT	\$0
1503000	NEMO VISTA SCHOOL DISTRICT	\$47,351
1505000	WONDERVIEW SCHOOL DISTRICT	\$15,531
1507000	SOUTH CONWAY COUNTY SCHOOL DISTRICT	\$20,610
1601000	BAY SCHOOL DISTRICT	\$0
1602000	WESTSIDE CONS. SCH. DISTRICT (CRAIG-HEAD)	\$0
1603000	BROOKLAND SCHOOL DISTRICT	\$0
1605000	BUFFALO IS. CENTRAL SCH. DISTRICT	\$0
1608000	JONESBORO SCHOOL DISTRICT	\$0
1611000	NETTLETON SCHOOL DISTRICT	\$0
1612000	VALLEY VIEW SCHOOL DISTRICT	\$0
1613000	RIVERSIDE SCHOOL DISTRICT	\$0

1701000	ALMA SCHOOL DISTRICT	\$0
1702000	CEDARVILLE SCHOOL DISTRICT	\$49,863
1703000	MOUNTAINBURG SCHOOL DISTRICT	\$56,458
1704000	MULBERRY PVB SCHOOL DISTRICT	\$38,151
1705000	VAN BUREN SCHOOL DISTRICT	\$0
1802000	EARLE SCHOOL DISTRICT	\$11,125
1803000	WEST MEMPHIS SCHOOL DISTRICT	\$0
1804000	MARION SCHOOL DISTRICT	\$16,617
1901000	CROSS COUNTY SCHOOL DISTRICT	\$31,068
1905000	WYNNE SCHOOL DISTRICT	\$5,510
2002000	FORDYCE SCHOOL DISTRICT	\$4,294
2104000	DUMAS SCHOOL DISTRICT	\$0
2105000	MCGEHEE SCHOOL DISTRICT	\$15,840
2202000	DREW CENTRAL SCHOOL DISTRICT	\$75,328
2203000	MONTICELLO SCHOOL DISTRICT	\$569
2301000	CONWAY SCHOOL DISTRICT	\$0
2303000	GREENBRIER SCHOOL DISTRICT	\$7,074
2304000	GUY-PERKINS SCHOOL DISTRICT	\$0
2305000	MAYFLOWER SCHOOL DISTRICT	\$0
2306000	MT. VERNON/ENOLA SCHOOL DISTRICT	\$51,529
2307000	VILONIA SCHOOL DISTRICT	\$12,284
2402000	CHARLESTON SCHOOL DISTRICT	\$0
2403000	COUNTY LINE SCHOOL DISTRICT	\$39,524
2404000	OZARK SCHOOL DISTRICT	\$37,649
2501000	MAMMOTH SPRING SCHOOL DISTRICT	\$64,318
2502000	SALEM SCHOOL DISTRICT	\$64,673
2503000	VIOLA SCHOOL DISTRICT	\$78,243
2601000	CUTTER-MORNING STAR SCHOOL DISTRICT	\$0
2602000	FOUNTAIN LAKE SCHOOL DISTRICT	\$23,226
2603000	HOT SPRINGS SCHOOL DISTRICT	\$0
2604000	JESSIEVILLE SCHOOL DISTRICT	\$27,586
2605000	LAKE HAMILTON SCHOOL DISTRICT	\$29,747
2606000	LAKESIDE SCHOOL DISTRICT (GARLAND)	\$0
2607000	MOUNTAIN PINE SCHOOL DISTRICT	\$0
2703000	POYEN SCHOOL DISTRICT	\$0
2705000	SHERIDAN SCHOOL DISTRICT	\$23,873
2803000	MARMADUKE SCHOOL DISTRICT	\$31,105
2807000	GREENE COUNTY TECH SCHOOL DISTRICT	\$27,751
2808000	PARAGOULD SCHOOL DISTRICT	\$12,588
2901000	BLEVINS SCHOOL DISTRICT	\$69,854
2903000	HOPE SCHOOL DISTRICT	\$0
2906000	SPRING HILL SCHOOL DISTRICT	\$0

3001000	BISMARCK SCHOOL DISTRICT	\$50,984
3002000	GLEN ROSE SCHOOL DISTRICT	\$1,126
3003000	MAGNET COVE SCHOOL DISTRICT	\$0
3004000	MALVERN SCHOOL DISTRICT	\$14,037
3005000	OUACHITA SCHOOL DISTRICT	\$0
3102000	DIERKS SCHOOL DISTRICT	\$36,293
3104000	MINERAL SPRINGS SCHOOL DISTRICT	\$4,778
3105000	NASHVILLE SCHOOL DISTRICT	\$0
3201000	BATESVILLE SCHOOL DISTRICT	\$16,124
3209000	SOUTHSIDE SCHOOL DISTRICT (INDEPENDENCE)	\$23,018
3211000	MIDLAND SCHOOL DISTRICT	\$63,557
3212000	CEDAR RIDGE SCHOOL DISTRICT	\$23,846
3301000	CALICO ROCK SCHOOL DISTRICT	\$28,531
3302000	MELBOURNE SCHOOL DISTRICT	\$57,449
3306000	IZARD COUNTY CONSOLIDATED SCHOOL DISTRICT	\$117,986
3403000	NEWPORT SCHOOL DISTRICT	\$880
3405000	JACKSON CO. SCHOOL DISTRICT	\$19,067
3502000	DOLLARWAY SCHOOL DISTRICT	\$9,228
3505000	PINE BLUFF SCHOOL DISTRICT	\$0
3509000	WATSON CHAPEL SCHOOL DISTRICT	\$47,654
3510000	WHITE HALL SCHOOL DISTRICT	\$0
3601000	CLARKSVILLE SCHOOL DISTRICT	\$0
3604000	LAMAR SCHOOL DISTRICT	\$30,399
3606000	WESTSIDE SCHOOL DISTRICT (JOHNSON)	\$19,106
3704000	LAFAYETTE COUNTY SCHOOL DISTRICT	\$87,055
3804000	HOXIE SCHOOL DISTRICT	\$24,709
3806000	SLOAN-HENDRIX SCHOOL DISTRICT	\$37,546
3809000	HILLCREST SCHOOL DISTRICT	\$14,890
3810000	LAWRENCE COUNTY SCHOOL DISTRICT	\$12,818
3840700	IMBODEN CHARTER SCHOOL DISTRICT	\$25,935
3904000	LEE COUNTY SCHOOL DISTRICT	\$82,508
4003000	STAR CITY SCHOOL DISTRICT	\$73,237
4101000	ASHDOWN SCHOOL DISTRICT	\$31,100
4102000	FOREMAN SCHOOL DISTRICT	\$45,709
4201000	BOONEVILLE SCHOOL DISTRICT	\$19,406
4202000	MAGAZINE SCHOOL DISTRICT	\$0
4203000	PARIS SCHOOL DISTRICT	\$38,477
4204000	SCRANTON SCHOOL DISTRICT	\$40,311
4301000	LONOKE SCHOOL DISTRICT	\$15,802
4302000	ENGLAND SCHOOL DISTRICT	\$13,357
4303000	CARLISLE SCHOOL DISTRICT	\$11,833
4304000	CABOT SCHOOL DISTRICT	\$0

4401000	HUNTSVILLE SCHOOL DISTRICT	\$40,974
4501000	FLIPPIN SCHOOL DISTRICT	\$4,851
4502000	YELLVILLE-SUMMIT SCHOOL DISTRICT	\$59,042
4602000	GENOA CENTRAL SCHOOL DISTRICT	\$14,471
4603000	FOUKE SCHOOL DISTRICT	\$55,259
4605000	TEXARKANA SCHOOL DISTRICT	\$0
4701000	ARMOREL SCHOOL DISTRICT	\$0
4702000	BLYTHEVILLE SCHOOL DISTRICT	\$0
4706000	RIVERCREST SCHOOL DISTRICT	\$47,996
4708000	GOSNELL SCHOOL DISTRICT	\$9,789
4712000	MANILA SCHOOL DISTRICT	\$0
4713000	OSCEOLA SCHOOL DISTRICT	\$0
4801000	BRINKLEY SCHOOL DISTRICT	\$0
4802000	CLARENDON SCHOOL DISTRICT	\$0
4901000	CADDO HILLS SCHOOL DISTRICT	\$97,666
4902000	MOUNT IDA SCHOOL DISTRICT	\$57,785
5006000	PRESCOTT SCHOOL DISTRICT	\$0
5008000	NEVADA SCHOOL DISTRICT	\$105,104
5102000	JASPER SCHOOL DISTRICT	\$57,521
5106000	DEER/MT. JUDEA SCHOOL DISTRICT	\$144,743
5201000	BEARDEN SCHOOL DISTRICT	\$72,008
5204000	CAMDEN FAIRVIEW SCHOOL DISTRICT	\$42,206
5205000	HARMONY GROVE SCHOOL DISTRICT (OUACHITA)	\$0
5301000	EAST END SCHOOL DISTRICT	\$0
5303000	PERRYVILLE SCHOOL DISTRICT	\$51,850
5401000	BARTON-LEXA SCHOOL DISTRICT	\$0
5403000	HELENA/W. HELENA SCHOOL DISTRICT	\$34,723
5404000	MARVELL-ELAINE SCHOOL DISTRICT	\$50,487
5502000	CENTERPOINT SCHOOL DISTRICT	\$35,942
5503000	KIRBY SCHOOL DISTRICT	\$88,203
5504000	SOUTH PIKE COUNTY SCHOOL DISTRICT	\$33,296
5602000	HARRISBURG SCHOOL DISTRICT	\$22,603
5604000	MARKED TREE SCHOOL DISTRICT	\$12,794
5605000	TRUMANN SCHOOL DISTRICT	\$0
5608000	EAST POINSETT CO. SCHOOL DISTRICT	\$0
5703000	MENA SCHOOL DISTRICT	\$50,796
5706000	OUACHITA RIVER SCHOOL DISTRICT	\$0
5707000	COSSATOT RIVER SCHOOL DISTRICT	\$17,109
5801000	ATKINS SCHOOL DISTRICT	\$34,025
5802000	DOVER SCHOOL DISTRICT	\$15,898
5803000	HECTOR SCHOOL DISTRICT	\$108,646
5804000	POTTSVILLE SCHOOL DISTRICT	\$0
5805000	RUSSELLVILLE SCHOOL DISTRICT	\$0

5901000	DES ARC SCHOOL DISTRICT	\$62,975
5903000	HAZEN SCHOOL DISTRICT	\$71,215
6001000	LITTLE ROCK SCHOOL DISTRICT	\$29,284
6002000	N. LITTLE ROCK SCHOOL DISTRICT	\$8,948
6003000	PULASKI COUNTY SPECIAL SCHOOL DISTRICT	\$21,640
6004000	JACKSONVILLE NORTH PULASKI SCHOOL DISTRICT	\$75,976
6056700	CAPITAL CITY LIGHTHOUSE ACADEMY	\$36,963
6102000	MAYNARD SCHOOL DISTRICT	\$98,734
6103000	POCAHONTAS SCHOOL DISTRICT	\$5,195
6201000	FORREST CITY SCHOOL DISTRICT	\$0
6205000	PALESTINE-WHEATLEY SCH. DISTRICT	\$0
6301000	BAUXITE SCHOOL DISTRICT	\$0
6302000	BENTON SCHOOL DISTRICT	\$0
6303000	BRYANT SCHOOL DISTRICT	\$0
6304000	HARMONY GROVE SCH. DISTRICT (SALINE)	\$0
6401000	WALDRON SCHOOL DISTRICT	\$32,019
6502000	SEARCY COUNTY SCHOOL DISTRICT	\$67,695
6505000	OZARK MOUNTAIN SCHOOL DISTRICT	\$0
6601000	FORT SMITH SCHOOL DISTRICT	\$0
6602000	GREENWOOD SCHOOL DISTRICT	\$3,509
6603000	HACKETT SCHOOL DISTRICT	\$37,581
6605000	LAVACA SCHOOL DISTRICT	\$0
6606000	MANSFIELD SCHOOL DISTRICT	\$46,678
6701000	DE QUEEN SCHOOL DISTRICT	\$0
6703000	HORATIO SCHOOL DISTRICT	\$29,974
6802000	CAVE CITY SCHOOL DISTRICT	\$110,861
6804000	HIGHLAND SCHOOL DISTRICT	\$33,426
6901000	MOUNTAIN VIEW SCHOOL DISTRICT	\$19,597
7001000	EL DORADO SCHOOL DISTRICT	\$0
7003000	JUNCTION CITY SCHOOL DISTRICT	\$83,138
7007000	PARKERS CHAPEL SCHOOL DISTRICT	\$0
7008000	SMACKOVER-NORPHLET SCHOOL DISTRICT	\$14,651
7009000	STRONG-HUTTIG SCHOOL DISTRICT	\$41,069
7102000	CLINTON SCHOOL DISTRICT	\$50,694
7104000	SHIRLEY SCHOOL DISTRICT	\$12,569
7105000	SOUTH SIDE SCH. DISTRICT (VAN BUREN)	\$0
7201000	ELKINS SCHOOL DISTRICT	\$23,782
7202000	FARMINGTON SCHOOL DISTRICT	\$0
7203000	FAYETTEVILLE SCHOOL DISTRICT	\$0
7204000	GREENLAND SCHOOL DISTRICT	\$28,756
7205000	LINCOLN CONSOLIDATED SCHOOL	\$53,047

DISTRICT

7206000	PRAIRIE GROVE SCHOOL DISTRICT	\$0
7207000	SPRINGDALE SCHOOL DISTRICT	\$0
7208000	WEST FORK SCHOOL DISTRICT	\$43,055
7301000	BALD KNOB SCHOOL DISTRICT	\$0
7302000	BEEBE SCHOOL DISTRICT	\$0
7303000	BRADFORD SCHOOL DISTRICT	\$13,723
7304000	WHITE CO. CENTRAL SCHOOL DISTRICT	\$3,852
7307000	RIVERVIEW SCHOOL DISTRICT	\$7,688
7309000	PANGBURN SCHOOL DISTRICT	\$12,630
7310000	ROSE BUD SCHOOL DISTRICT	\$77,947
7311000	SEARCY SCHOOL DISTRICT	\$0
7401000	AUGUSTA SCHOOL DISTRICT	\$0
7403000	MCCRORY SCHOOL DISTRICT	\$0
7503000	DANVILLE SCHOOL DISTRICT	\$5,497
7504000	DARDANELLE SCHOOL DISTRICT	\$0
7509000	WESTERN YELL CO. SCHOOL DISTRICT	\$100,394
7510000	TWO RIVERS SCHOOL DISTRICT	\$35,333

(b) For the 2022-2023 school year and each school year thereafter, in addition to the foundation funding provided to a school district under § 6-20-2305(a)(2), the division shall distribute enhanced transportation funding to school districts each school year in the following amounts:

101000	DEWITT SCHOOL DISTRICT	\$14,029
104000	STUTTGART SCHOOL DISTRICT	\$0
201000	CROSSETT SCHOOL DISTRICT	\$0
203000	HAMBURG SCHOOL DISTRICT	\$76,501
302000	COTTER SCHOOL DISTRICT	\$0
303000	MOUNTAIN HOME SCHOOL DISTRICT	\$42,803
304000	NORFORK SCHOOL DISTRICT	\$85,494
401000	BENTONVILLE SCHOOL DISTRICT	\$0
402000	DECATUR SCHOOL DISTRICT	\$0
403000	GENTRY SCHOOL DISTRICT	\$2,122
404000	GRAVETTE SCHOOL DISTRICT	\$31,864
405000	ROGERS SCHOOL DISTRICT	\$0
406000	SILAM SPRINGS SCHOOL DISTRICT	\$0
407000	PEA RIDGE SCHOOL DISTRICT	\$0
501000	ALPENA SCHOOL DISTRICT	\$48,581
502000	BERGMAN SCHOOL DISTRICT	\$14,418
503000	HARRISON SCHOOL DISTRICT	\$20,623
504000	OMAHA SCHOOL DISTRICT	\$59,094
505000	VALLEY SPRINGS SCHOOL DISTRICT	\$20,557
506000	LEAD HILL SCHOOL DISTRICT	\$127,727
601000	HERMITAGE SCHOOL DISTRICT	\$82,831

602000	WARREN SCHOOL DISTRICT	\$0
701000	HAMPTON SCHOOL DISTRICT	\$49,758
801000	BERRYVILLE SCHOOL DISTRICT	\$29,846
802000	EUREKA SPRINGS SCHOOL DISTRICT	\$0
803000	GREEN FOREST SCHOOL DISTRICT	\$0
901000	DERMOTT SCHOOL DISTRICT	\$17,137
903000	LAKE SIDE SCHOOL DISTRICT (CHICOT)	\$136,389
1002000	ARKADELPHIA SCHOOL DISTRICT	\$0
1003000	GURDON SCHOOL DISTRICT	\$60,783
1101000	CORNING SCHOOL DISTRICT	\$12,036
1104000	PIGGOTT SCHOOL DISTRICT	\$24,401
1106000	RECTOR SCHOOL DISTRICT	\$12,254
1201000	CONCORD SCHOOL DISTRICT	\$66,724
1202000	HEBER SPRINGS SCHOOL DISTRICT	\$0
1203000	QUITMAN SCHOOL DISTRICT	\$49,798
1204000	WEST SIDE SCHOOL DISTRICT (CLEBURNE)	\$0
1304000	WOODLAWN SCHOOL DISTRICT	\$55,204
1305000	CLEVELAND COUNTY SCHOOL DISTRICT	\$101,035
1402000	MAGNOLIA SCHOOL DISTRICT	\$54,309
1408000	EMERSON-TAYLOR-BRADLEY SCHOOL DISTRICT	\$0
1503000	NEMO VISTA SCHOOL DISTRICT	\$58,428
1505000	WONDERVIEW SCHOOL DISTRICT	\$15,531
1507000	SOUTH CONWAY COUNTY SCHOOL DISTRICT	\$25,432
1601000	BAY SCHOOL DISTRICT	\$0
1602000	WESTSIDE CONS. SCH. DISTRICT (CRAIG-HEAD)	\$0
1603000	BROOKLAND SCHOOL DISTRICT	\$0
1605000	BUFFALO IS. CENTRAL SCH. DISTRICT	\$0
1608000	JONESBORO SCHOOL DISTRICT	\$0
1611000	NETTLETON SCHOOL DISTRICT	\$0
1612000	VALLEY VIEW SCHOOL DISTRICT	\$0
1613000	RIVERSIDE SCHOOL DISTRICT	\$0
1701000	ALMA SCHOOL DISTRICT	\$0
1702000	CEDARVILLE SCHOOL DISTRICT	\$61,528
1703000	MOUNTAINBURG SCHOOL DISTRICT	\$69,666
1704000	MULBERRY PVB SCHOOL DISTRICT	\$38,151
1705000	VAN BUREN SCHOOL DISTRICT	\$0
1802000	EARLE SCHOOL DISTRICT	\$13,728
1803000	WEST MEMPHIS SCHOOL DISTRICT	\$0
1804000	MARION SCHOOL DISTRICT	\$20,504
1901000	CROSS COUNTY SCHOOL DISTRICT	\$38,336
1905000	WYNNE SCHOOL DISTRICT	\$6,800

2002000	FORDYCE SCHOOL DISTRICT	\$5,299
2104000	DUMAS SCHOOL DISTRICT	\$0
2105000	MCGEHEE SCHOOL DISTRICT	\$19,546
2202000	DREW CENTRAL SCHOOL DISTRICT	\$92,950
2203000	MONTICELLO SCHOOL DISTRICT	\$702
2301000	CONWAY SCHOOL DISTRICT	\$0
2303000	GREENBRIER SCHOOL DISTRICT	\$8,729
2304000	GUY-PERKINS SCHOOL DISTRICT	\$0
2305000	MAYFLOWER SCHOOL DISTRICT	\$0
2306000	MT. VERNON/ENOLA SCHOOL DISTRICT	\$60,706
2307000	VILONIA SCHOOL DISTRICT	\$15,158
2402000	CHARLESTON SCHOOL DISTRICT	\$0
2403000	COUNTY LINE SCHOOL DISTRICT	\$48,770
2404000	OZARK SCHOOL DISTRICT	\$46,457
2501000	MAMMOTH SPRING SCHOOL DISTRICT	\$79,365
2502000	SALEM SCHOOL DISTRICT	\$70,285
2503000	VIOLA SCHOOL DISTRICT	\$96,548
2601000	CUTTER-MORNING STAR SCHOOL DISTRICT	\$0
2602000	FOUNTAIN LAKE SCHOOL DISTRICT	\$28,660
2603000	HOT SPRINGS SCHOOL DISTRICT	\$0
2604000	JESSIEVILLE SCHOOL DISTRICT	\$34,039
2605000	LAKE HAMILTON SCHOOL DISTRICT	\$36,706
2606000	LAKESIDE SCHOOL DISTRICT (GARLAND)	\$0
2607000	MOUNTAIN PINE SCHOOL DISTRICT	\$0
2703000	POYEN SCHOOL DISTRICT	\$0
2705000	SHERIDAN SCHOOL DISTRICT	\$29,458
2803000	MARMADUKE SCHOOL DISTRICT	\$38,382
2807000	GREENE COUNTY TECH SCHOOL DISTRICT	\$34,243
2808000	PARAGOULD SCHOOL DISTRICT	\$15,533
2901000	BLEVINS SCHOOL DISTRICT	\$69,854
2903000	HOPE SCHOOL DISTRICT	\$0
2906000	SPRING HILL SCHOOL DISTRICT	\$0
3001000	BISMARCK SCHOOL DISTRICT	\$62,911
3002000	GLEN ROSE SCHOOL DISTRICT	\$1,390
3003000	MAGNET COVE SCHOOL DISTRICT	\$0
3004000	MALVERN SCHOOL DISTRICT	\$17,321
3005000	OUACHITA SCHOOL DISTRICT	\$0
3102000	DIERKS SCHOOL DISTRICT	\$44,783
3104000	MINERAL SPRINGS SCHOOL DISTRICT	\$5,896
3105000	NASHVILLE SCHOOL DISTRICT	\$0
3201000	BATESVILLE SCHOOL DISTRICT	\$19,896
3209000	SOUTHSIDE SCHOOL DISTRICT (INDEPEN- DENCE)	\$28,403

3211000	MIDLAND SCHOOL DISTRICT	\$78,426
3212000	CEDAR RIDGE SCHOOL DISTRICT	\$29,425
3301000	CALICO ROCK SCHOOL DISTRICT	\$28,531
3302000	MELBOURNE SCHOOL DISTRICT	\$70,889
3306000	IZARD COUNTY CONSOLIDATED SCHOOL DISTRICT	\$145,589
3403000	NEWPORT SCHOOL DISTRICT	\$880
3405000	JACKSON CO. SCHOOL DISTRICT	\$23,528
3502000	DOLLARWAY SCHOOL DISTRICT	\$11,387
3505000	PINE BLUFF SCHOOL DISTRICT	\$0
3509000	WATSON CHAPEL SCHOOL DISTRICT	\$58,803
3510000	WHITE HALL SCHOOL DISTRICT	\$0
3601000	CLARKSVILLE SCHOOL DISTRICT	\$0
3604000	LAMAR SCHOOL DISTRICT	\$37,511
3606000	WESTSIDE SCHOOL DISTRICT (JOHNSON)	\$23,576
3704000	LAFAYETTE COUNTY SCHOOL DISTRICT	\$107,422
3804000	HOXIE SCHOOL DISTRICT	\$30,489
3806000	SLOAN-HENDRIX SCHOOL DISTRICT	\$46,330
3809000	HILLCREST SCHOOL DISTRICT	\$18,374
3810000	LAWRENCE COUNTY SCHOOL DISTRICT	\$12,818
3840700	IMBODEN CHARTER SCHOOL DISTRICT	\$25,935
3904000	LEE COUNTY SCHOOL DISTRICT	\$101,811
4003000	STAR CITY SCHOOL DISTRICT	\$90,370
4101000	ASHDOWN SCHOOL DISTRICT	\$38,376
4102000	FOREMAN SCHOOL DISTRICT	\$45,709
4201000	BOONEVILLE SCHOOL DISTRICT	\$23,946
4202000	MAGAZINE SCHOOL DISTRICT	\$0
4203000	PARIS SCHOOL DISTRICT	\$47,479
4204000	SCRANTON SCHOOL DISTRICT	\$40,311
4301000	LONOKE SCHOOL DISTRICT	\$19,499
4302000	ENGLAND SCHOOL DISTRICT	\$16,482
4303000	CARLISLE SCHOOL DISTRICT	\$14,602
4304000	CABOT SCHOOL DISTRICT	\$0
4401000	HUNTSVILLE SCHOOL DISTRICT	\$50,560
4501000	FLIPPIN SCHOOL DISTRICT	\$4,851
4502000	YELLVILLE-SUMMIT SCHOOL DISTRICT	\$72,854
4602000	GENOA CENTRAL SCHOOL DISTRICT	\$17,857
4603000	FOUKE SCHOOL DISTRICT	\$68,187
4605000	TEXARKANA SCHOOL DISTRICT	\$0
4701000	ARMOREL SCHOOL DISTRICT	\$0
4702000	BLYTHEVILLE SCHOOL DISTRICT	\$0
4706000	RIVERCREST SCHOOL DISTRICT	\$59,224
4708000	GOSNELL SCHOOL DISTRICT	\$12,079
4712000	MANILA SCHOOL DISTRICT	\$0

4713000	OSCEOLA SCHOOL DISTRICT	\$0
4801000	BRINKLEY SCHOOL DISTRICT	\$0
4802000	CLARENDON SCHOOL DISTRICT	\$0
4901000	CADDO HILLS SCHOOL DISTRICT	\$120,515
4902000	MOUNT IDA SCHOOL DISTRICT	\$71,303
5006000	PRESCOTT SCHOOL DISTRICT	\$0
5008000	NEVADA SCHOOL DISTRICT	\$123,376
5102000	JASPER SCHOOL DISTRICT	\$70,978
5106000	DEER/MT. JUDEA SCHOOL DISTRICT	\$178,606
5201000	BEARDEN SCHOOL DISTRICT	\$88,854
5204000	CAMDEN FAIRVIEW SCHOOL DISTRICT	\$52,079
5205000	HARMONY GROVE SCHOOL DISTRICT (OUACHIT)	\$0
5301000	EAST END SCHOOL DISTRICT	\$0
5303000	PERRYVILLE SCHOOL DISTRICT	\$63,980
5401000	BARTON-LEXA SCHOOL DISTRICT	\$0
5403000	HELENA/W. HELENA SCHOOL DISTRICT	\$42,846
5404000	MARVELL-ELAINE SCHOOL DISTRICT	\$62,299
5502000	CENTERPOINT SCHOOL DISTRICT	\$35,942
5503000	KIRBY SCHOOL DISTRICT	\$108,838
5504000	SOUTH PIKE COUNTY SCHOOL DISTRICT	\$41,085
5602000	HARRISBURG SCHOOL DISTRICT	\$27,891
5604000	MARKED TREE SCHOOL DISTRICT	\$15,787
5605000	TRUMANN SCHOOL DISTRICT	\$0
5608000	EAST POINSETT CO. SCHOOL DISTRICT	\$0
5703000	MENA SCHOOL DISTRICT	\$62,679
5706000	OUACHITA RIVER SCHOOL DISTRICT	\$0
5707000	COSSATOT RIVER SCHOOL DISTRICT	\$21,111
5801000	ATKINS SCHOOL DISTRICT	\$41,985
5802000	DOVER SCHOOL DISTRICT	\$19,617
5803000	HECTOR SCHOOL DISTRICT	\$108,646
5804000	POTTSVILLE SCHOOL DISTRICT	\$0
5805000	RUSSELLVILLE SCHOOL DISTRICT	\$0
5901000	DES ARC SCHOOL DISTRICT	\$71,287
5903000	HAZEN SCHOOL DISTRICT	\$87,876
6001000	LITTLE ROCK SCHOOL DISTRICT	\$36,135
6002000	N. LITTLE ROCK SCHOOL DISTRICT	\$11,041
6003000	PULASKI COUNTY SPECIAL SCHOOL DISTRICT	\$26,702
6004000	JACKSONVILLE NORTH PULASKI SCHOOL DISTRICT	\$93,750
6056700	CAPITAL CITY LIGHTHOUSE ACADEMY	\$45,611
6102000	MAYNARD SCHOOL DISTRICT	\$120,463
6103000	POCAHONTAS SCHOOL DISTRICT	\$6,410

6201000	FORREST CITY SCHOOL DISTRICT	\$0
6205000	PALESTINE-WHEATLEY SCH. DISTRICT	\$0
6301000	BAUXITE SCHOOL DISTRICT	\$0
6302000	BENTON SCHOOL DISTRICT	\$0
6303000	BRYANT SCHOOL DISTRICT	\$0
6304000	HARMONY GROVE SCH. DISTRICT (SALINE)	\$0
6401000	WALDRON SCHOOL DISTRICT	\$39,510
6502000	SEARCY COUNTY SCHOOL DISTRICT	\$83,532
6505000	OZARK MOUNTAIN SCHOOL DISTRICT	\$0
6601000	FORT SMITH SCHOOL DISTRICT	\$0
6602000	GREENWOOD SCHOOL DISTRICT	\$4,330
6603000	HACKETT SCHOOL DISTRICT	\$37,581
6605000	LAVACA SCHOOL DISTRICT	\$0
6606000	MANSFIELD SCHOOL DISTRICT	\$57,598
6701000	DE QUEEN SCHOOL DISTRICT	\$0
6703000	HORATIO SCHOOL DISTRICT	\$36,987
6802000	CAVE CITY SCHOOL DISTRICT	\$136,797
6804000	HIGHLAND SCHOOL DISTRICT	\$41,246
6901000	MOUNTAIN VIEW SCHOOL DISTRICT	\$24,182
7001000	EL DORADO SCHOOL DISTRICT	\$0
7003000	JUNCTION CITY SCHOOL DISTRICT	\$102,587
7007000	PARKERS CHAPEL SCHOOL DISTRICT	\$0
7008000	SMACKOVER-NORPHLET SCHOOL DISTRICT	\$18,078
7009000	STRONG-HUTTIG SCHOOL DISTRICT	\$50,677
7102000	CLINTON SCHOOL DISTRICT	\$62,553
7104000	SHIRLEY SCHOOL DISTRICT	\$15,509
7105000	SOUTH SIDE SCH. DISTRICT (VAN BUREN)	\$0
7201000	ELKINS SCHOOL DISTRICT	\$29,346
7202000	FARMINGTON SCHOOL DISTRICT	\$0
7203000	FAYETTEVILLE SCHOOL DISTRICT	\$0
7204000	GREENLAND SCHOOL DISTRICT	\$35,484
7205000	LINCOLN CONSOLIDATED SCHOOL DISTRICT	\$65,457
7206000	PRAIRIE GROVE SCHOOL DISTRICT	\$0
7207000	SPRINGDALE SCHOOL DISTRICT	\$0
7208000	WEST FORK SCHOOL DISTRICT	\$53,127
7301000	BALD KNOB SCHOOL DISTRICT	\$0
7302000	BEEBE SCHOOL DISTRICT	\$0
7303000	BRADFORD SCHOOL DISTRICT	\$16,933
7304000	WHITE CO. CENTRAL SCHOOL DISTRICT	\$4,753
7307000	RIVERVIEW SCHOOL DISTRICT	\$9,487
7309000	PANGBURN SCHOOL DISTRICT	\$15,584

7310000 ROSE BUD SCHOOL DISTRICT	\$96,183
7311000 SEARCY SCHOOL DISTRICT	\$0
7401000 AUGUSTA SCHOOL DISTRICT	\$0
7403000 MCCRORY SCHOOL DISTRICT	\$0
7503000 DANVILLE SCHOOL DISTRICT	\$6,783
7504000 DARDANELLE SCHOOL DISTRICT	\$0
7509000 WESTERN YELL CO. SCHOOL DISTRICT	\$123,881
7510000 TWO RIVERS SCHOOL DISTRICT	\$43,599

History. Acts 2017, No. 743, § 6; 2019, No. 667, § 5; 2019, No. 910, § 1700; 2021, No. 323, § 1; 2021, No. 400, § 1.

Amendments. The 2019 amendment by No. 667 substituted “2019-2020” for “2017-2018” and “2020-2021” for “2018-2019” in the introductory language; and updated the table.

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in the introductory language.

The 2021 amendment by nearly identical acts Nos. 323 and 400 added (b) and redesignated the former section as (a); and rewrote (a).

SUBCHAPTER 24 — SUPPLEMENTAL SCHOOL DISTRICT FUNDING ACT OF 2003 [Repealed.]

SECTION.

6-20-2401 — 6-20-2407. [Repealed.]

6-20-2401 — 6-20-2407. [Repealed.]

Publisher’s Notes. This subchapter, concerning the Supplemental School District Funding Act of 2003, was repealed by Acts 2005, No. 2206, § 2. The subchapter was derived from the following sources:

6-20-2401. Acts 2003 (2nd Ex. Sess.), No. 69, § 1.

6-20-2402. Acts 2003 (2nd Ex. Sess.), No. 69, § 1.

6-20-2403. Acts 2003 (2nd Ex. Sess.), No. 69, § 1.

6-20-2404. Acts 2003 (2nd Ex. Sess.), No. 69, § 1.

6-20-2405. Acts 2003 (2nd Ex. Sess.), No. 69, § 1.

6-20-2406. Acts 2003 (2nd Ex. Sess.), No. 69, § 1.

6-20-2407. Acts 2003 (2nd Ex. Sess.), No. 69, § 1.

SUBCHAPTER 25 — ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES FUNDING ACT

SECTION.

6-20-2501. Title.

6-20-2502. Definitions.

6-20-2503. Bonded debt assistance — Definitions.

6-20-2504 — 6-20-2506. [Repealed.]

6-20-2507. Academic Facilities Partnership Program.

6-20-2508. Academic Facilities Catastrophic Program.

6-20-2509. Project cost guidelines.

6-20-2510. Incentives for collaboration.

SECTION.

6-20-2511. High-growth school districts — Definitions.

6-20-2512. Regulatory authority.

6-20-2513. Appeals.

6-20-2514. Academic Facilities Extraordinary Circumstances Program.

6-20-2515. Review conferences.

6-20-2516. Academic Facilities Review Board.

6-20-2517. Nursing center.

SECTION.

6-20-2518. [Repealed.]

Effective Dates. Acts 2005, No. 2206, § 3: Apr. 13, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has determined that current public school academic facilities in Arkansas are inadequate and inequitable; that the General Assembly established the Joint Committee on Educational Facilities to inventory the current condition of public school academic facilities and recommend methods for bringing public school academic facilities into conformity with the court's constitutional expectations; that the programs established in this act are derived from recommendations of the joint committee and are part of a comprehensive program for overseeing the provision of constitutionally appropriate public school academic facilities across the state; that this program must be implemented immediately for the good of public school students in Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety, shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Identical Acts 2006 (1st Ex. Sess.), Nos. 34 and 35, § 2: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court found that the public school funding system continues to be inadequate and the public schools are operating under a constitutional infirmity which must be corrected immediately; that some school districts may be unable to raise local resources necessary to qualify for state financial participation under the Arkansas Public School Academic Facilities Funding Act, § 6-21-2501 et seq., and may not receive any state financial assistance for academic facilities as a result; and that this act is immediately necessary to begin

the development of a program to address the potential financial needs of school districts in extraordinary financial circumstances. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2007, No. 625, § 4: March 28, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the state's public schools in some cases may not be adequately insured to provide for the rebuilding of classrooms and facilities and continuing the provision of a quality education; that uninsured losses harm the state's ability to establish and maintain appropriate educational facilities for its students; and that this act is necessary to ensure that the Commission for Arkansas Public School Academic Facilities and Transportation in consultation with the Insurance Commissioner examine and address the state's public facility insurance needs to immediately address any deficiencies and maximize the state's educational resources. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2013 (1st Ex. Sess.), No. 1, § 3: July 1, 2014. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Public School Insurance Trust Fund is inadequate to provide affordable health insurance for public school employ-

ees; changes to the funding system for public school employee health insurance is necessary to ensure a stable and affordable program of health insurance plan options; and that this act is necessary to provide additional funding for public school employee health insurance. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2014.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new de-

partments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-20-2501. Title.

This subchapter is known as and may be cited as the “Arkansas Public School Academic Facilities Funding Act”.

History. Acts 2005, No. 2206, § 1.

6-20-2502. Definitions.

As used in this subchapter:

(1)(A) For fiscal years 2024-2025 and each year thereafter, “academic facilities wealth index” means a percentage derived from the following computations:

(i) Determine the value of one (1) mill per student in each school district as follows:

(a) Multiply the value of one (1) mill by the total assessed valuation of taxable real, personal, and utility property in the school district as shown by the applicable county assessment for the most recent year; and

(b) Divide the product from subdivision (1)(A)(i)(a) of this section by the largest average daily membership of a school district over the previous decade;

(ii)(a) Calculate each school district’s relative median income by dividing the household median income for the area served by each school district by the household median income of the school district with the highest household median income.

(b) The household median income used in subdivision (1)(A)(ii)(a) of this section shall be the household median income as estimated by the United States Bureau of the Census’s American Community Survey;

(iii) Calculate the median income per mill value by multiplying each school district’s value of one (1) mill per student as calculated

under subdivision (1)(A)(i) of this section by the school district's relative median income as calculated under subdivision (1)(A)(ii)(a) of this section; and

(iv) Identify the school district at the ninety-fifth percentile according to the value calculated under subdivision (1)(A)(iii) of this section by:

(a) Determining student millage rankings by listing the median income per mill value under subdivision (1)(A)(iii) of this section for each school district from districts with the lowest median income per mill value to school districts with the highest median income per mill value;

(b) Allocating the student millage rankings into percentiles with the first percentile containing the one percent (1%) of students based on the prior year average daily membership with the lowest value per mill and the one-hundredth percentile containing the one percent (1%) of students with the highest value per mill;

(c) Dividing the median income per mill value as computed under subdivision (1)(A)(iii) of this section by the amount corresponding to the ninety-fifth percentile of the student millage rankings under subdivision (1)(A)(iv)(b) of this section; and

(d) Every school district with a wealth index of one (1.00) or greater will be funded at the same level as the first school district with a wealth index below one (1.00), except that funding under this subdivision (1)(A)(iv)(d) shall not exceed the amount of funding provided to a school district with a wealth index of nine hundred ninety-five thousandths (0.995).

(B) For fiscal years 2022-2023, "academic facilities wealth index" means a percentage derived from the following computations:

(i) Determine the value of one (1) mill per student in each school district as follows:

(a) Multiply the value of one (1) mill by the total assessed valuation of taxable real, personal, and utility property in the school district as shown by the applicable county assessment for the most recent year; and

(b) Divide the product from subdivision (1)(B)(i)(a) of this section by the prior year average daily membership of the school district or the prior three-year average of the school district's average daily membership, whichever is greater;

(ii) Determine student millage rankings by listing the computation under subdivision (1)(B)(i) of this section for each school district from school districts with the lowest value per mill to school districts with the highest value per mill;

(iii) Allocate the student millage rankings into percentiles with the first percentile containing the one percent (1%) of students with the lowest value per mill and the one-hundredth percentile containing the one percent (1%) of students with the highest value per mill;

(iv) Divide the value of one (1) mill per student in each school district as computed under subdivision (1)(B)(i) of this section by the

amount corresponding to the ninety-fifth percentile of the student millage rankings under subdivision (1)(B)(iii) of this section;

(v) Every school district with a wealth index of one (1.00) or greater will be funded at the same level as the first school district with a wealth index below one (1.00), except that funding under this subdivision (1)(B)(v) shall not exceed the amount of funding provided to a school district with a wealth index of nine hundred ninety-five thousandths (0.995);

(vi) Subtract the academic facilities wealth index as determined under subdivisions (1)(B)(iv) and (v) of this section from the academic facilities wealth index as determined under subdivision (1)(A)(iv) of this section;

(vii) Divide the result from subdivision (1)(B)(vi) of this section by two (2); and

(viii) Add the value from subdivision (1)(B)(iv) of this section with the number calculated in subdivision (1)(B)(vii) of this section.

(C)(i) The percentage derived from the computation under subdivision (1)(A)(iv) of this section is the academic facilities wealth index for a school district, which shall be computed annually and used to determine the amount of the school district's share of financial participation in a local academic facilities project eligible for state financial participation under priorities established by the Division of Public School Academic Facilities and Transportation.

(ii) The state's share of financial participation in a local academic facilities project eligible for state financial participation under priorities established by the division is the percentage derived from subtracting the school district's percentage share of financial participation determined under subdivision (1)(C)(i) of this section from one hundred percent (100%).

(D) A school district identified as a high-growth school district as defined in § 6-20-2511 shall receive the lesser of the wealth index as calculated under the formulas under subdivisions (1)(A) and (B) of this section until the school district fails to meet the definition of a high-growth school district as defined in § 6-20-2511 for two (2) consecutive years;

(2)(A) "Academic facility" means a building or space, including related areas such as the physical plant and grounds, where students receive instruction that is an integral part of an adequate education as described in § 6-20-2302.

(B)(i) A public school building or space, including related areas such as the physical plant and grounds, used for an extracurricular activity or an organized physical activity course as defined in § 6-16-137 shall not be considered an academic facility for the purposes of this subchapter to the extent that the building, space, or related area is used for extracurricular activities or organized physical activities courses, except for physical educational training and instruction under § 6-16-132.

(ii) The division shall determine the extent to which a building, space, or related area is used for extracurricular activities or orga-

nized physical activities courses based on information supplied by the school district and, if necessary, on-site inspection.

(iii) A leased facility shall not be considered an academic facility for the purpose of this subchapter.

(C) Buildings or spaces, including related areas such as the physical plant and grounds, used for prekindergarten education shall not be considered academic facilities for purposes of this subchapter.

(D) District administration buildings and spaces, including related areas such as the physical plant and grounds, shall not be considered academic facilities for the purposes of this subchapter;

(3)(A) "Average daily membership" means the total number of days of school attended plus the total number of days absent by students in kindergarten through grade twelve (K-12) during the first three (3) quarters of each school year divided by the number of school days actually taught in the school district during that period of time rounded up to the nearest hundredth.

(B) As applied to this subchapter, students who may be counted for average daily membership are:

(i) Students who reside within the boundaries of the school district and who are enrolled in a public school operated by the school district;

(ii) Legally transferred students living outside the school district but attending a public school in the school district; and

(iii) Students who are eligible to attend and reside within the boundaries of a school district and who are enrolled in the Arkansas National Guard Youth Challenge Program, so long as the students are participants in the program;

(4) "Building" means a structure used or intended for supporting or sheltering any use or occupancy;

(5) "Facility condition index" means a methodology established by the division for comparing the cost of repairing the condition of a public school academic facility to the cost of replacing the public school academic facility with a public school academic facility containing the same amount of square footage;

(6) "Immediate repair project" means a project involving a public school academic facility that is necessary to resolve a deficiency that presents an immediate hazard to:

(A) The health or safety of students, teachers, administrators, or staff;

(B) The integrity of the public school academic facility with regard to meeting minimum health and safety standards; or

(C) The extraordinary deterioration of the public school academic facility;

(7) "Local enhancements" means the portion of any maintenance, repair, or renovation project or new construction project that is designed to bring an academic facility or related areas such as the physical plant or grounds to a state of condition or efficiency that exceeds state academic facilities standards;

(8) "Local resources" means any moneys lawfully generated by a school district for the purpose of funding the school district's share of

financial participation in any academic facilities project for which a school district is eligible to receive state financial participation under priorities established by the division;

(9) “Maintenance, repair, and renovation” means any activity or improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds, that maintains, conserves, or protects the state of condition or efficiency of the academic facility;

(10) “Millage rate” means the millage rate listed in the most recent tax ordinance approved by the county quorum court under the authority of § 14-14-904;

(11)(A) “New construction” means any improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds, that brings the state of condition or efficiency of the academic facility to a state of condition or efficiency better than the academic facility’s current condition of completeness or efficiency.

(B) “New construction” includes additions to existing academic facilities and new academic facilities;

(12) “Project” means an undertaking in which a school district engages in:

(A) Maintenance, repair, and renovation activities with regard to an academic facility;

(B) New construction of an academic facility; or

(C) Any combination of maintenance, repair, and renovation and new construction activities with regard to an academic facility; and

(13) “Space utilization” means the number of gross square feet per student in a public school academic facility adjusted for academic program, school enrollment, grade configuration, and type of public school in accordance with rules promulgated by the Commission for Arkansas Public School Academic Facilities and Transportation.

History. Acts 2005, No. 2206, § 1; 2007, No. 727, § 1; 2009, No. 1473, § 9; 2011, No. 1006, §§ 6, 7; 2017, No. 935, § 3; 2019, No. 1080, § 1.

Amendments. The 2017 amendment added the definition for “Building”.

The 2019 amendment rewrote (1)(A) and (1)(B); and added (1)(D).

CASE NOTES

Res Judicata.

Res judicata did not bar a claim alleging inadequate funding to maintain and repair facilities because this section has been amended and the claim thus could

not have been brought before issuance of the mandate in a previous school-funding case. *Deer/Mt. Judea Sch. Dist. v. Kimbrell*, 2013 Ark. 393, 430 S.W.3d 29 (2013).

6-20-2503. Bonded debt assistance — Definitions.

(a) As used in this section:

(1) “Eligible school district” means a school district that applied for bonded debt assistance under this section before July 1, 2005;

(2) “Foundation funding” means an amount of money specified by the General Assembly for each school year to be expended by school

districts for the provision of an adequate education for each student as that amount is established in § 6-20-2305;

(3) "Miscellaneous funds" means the amount of miscellaneous funds, as defined in § 6-20-2303, calculated under § 6-20-2308(a);

(4) "Per-student revenue" means the sum of projected revenue from the uniform rate of tax and miscellaneous funds divided by the average daily membership for the school district for the previous school year;

(5) "Projected revenue from the uniform rate of tax" means in each school year ninety-eight percent (98%) of the amount of revenue available in a school district solely from the levy of the uniform rate of tax; and

(6) "State wealth index" means the result of one (1) minus the ratio derived by dividing per-student revenue by the difference between the per-student foundation funding amount under § 6-20-2305 and per-student revenue.

(b)(1) In accordance with the requirements and limitations of this section, the state shall provide eligible school districts with financial assistance for the purpose of retiring outstanding bonded indebtedness in existence as of January 1, 2005.

(2) The amount of financial assistance under this section is based on:

(A) The total amount required to satisfy a school district's outstanding bonded indebtedness in existence as of January 1, 2005;

(B) The annual amount due on a fiscal year basis from the school district in accordance with the principal and interest payment schedule in effect and on file with the Division of Elementary and Secondary Education on January 1, 2005, for the outstanding bonded indebtedness identified under subdivision (b)(2)(A) of this section; and

(C) The calculation in subdivision (b)(3)(A) of this section.

(3)(A) The Commission for Arkansas Public School Academic Facilities and Transportation shall determine the amount of bonded debt assistance for each eligible school district as follows:

(i)(a) For the year that financial assistance under this section will be provided, ascertain the scheduled debt payment on a fiscal year basis from the principal and interest payment schedule in effect and on file with the Division of Elementary and Secondary Education on January 1, 2005, and reduce the amount of the payment by ten percent (10%) except as provided in subdivision (b)(3)(A)(i)(b) of this section.

(b)(1) If a school district can demonstrate to the satisfaction of the commission that all or a portion of the ten-percent reduction in its scheduled debt payment under subdivision (b)(3)(A)(i)(a) of this section can be attributed to the support of academic facilities, the commission shall reverse all or a portion of the ten-percent reduction by a percentage proportionate to the amount attributable to academic facilities.

(2) A school district that applied to the commission during the 2006-2007 school year for a reversal of the ten-percent reduction but

was denied the reversal by the commission due to the failure of the school district to submit timely appeals shall be entitled to receive bonded debt assistance for the relevant period of the program beginning with the 2007-2008 school year in the amount approved by the Division of Public School Academic Facilities and Transportation;

(ii) For the year that bonded debt assistance will be provided, divide the scheduled debt payment as adjusted under subdivision (b)(3)(A)(i) of this section by the total assessed valuation of taxable real, personal, and utility property in the school district as shown by the applicable county assessment for the most recent year with the result multiplied by one thousand (1,000);

(iii)(a) Multiply the calculation under subdivision (b)(3)(A)(ii) of this section by a funding factor per average daily membership that will distribute a total amount of bonded debt assistance no less than the total amount of funds that would have been distributed during fiscal year 2005 if every school district in the state had received an amount of bonded debt assistance equal to an amount calculated by applying the debt service funding supplement formula under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], during Fiscal Year 2005 with a funding factor of eighteen dollars and three cents (\$18.03).

(b) The funding factor for each fiscal year after Fiscal Year 2006 shall be equal to the funding factor derived for Fiscal Year 2006 under subdivision (b)(3)(A)(iii)(a) of this section; and

(iv) Multiply the calculation under subdivision (b)(3)(A)(iii) of this section by the state wealth index.

(B) As the amount of bonded debt assistance under this section decreases to correlate with reductions in principal and interest payments and increases in property assessments, the commission shall distribute any remaining funded bonded debt assistance appropriation through the Educational Facilities Partnership Fund Account in accordance with rules promulgated by the commission.

(4)(A) The commission shall determine the amount of bonded debt assistance for each eligible school district no later than July 15 of each year.

(B)(i) Bonded debt assistance under this subsection is payable to each eligible school district in two (2) installments.

(ii) The commission shall arrange for the payment of the first installment by August 1 of each year and the second installment by February 1 of each year.

(5) For tracking purposes, the school district shall account for the funds received as state bonded debt assistance under this section as restricted funds and shall account for the funds in accordance with provisions of law, including, without limitation, the Arkansas Educational Financial Accounting and Reporting Act of 2004, § 6-20-2201 et seq., and rules established by the commission.

(c)(1)(A) Nothing in this section shall prohibit a school district from refunding bonds that were issued and outstanding as of January 1, 2005.

(B) If a school district qualifies for bonded debt assistance under this section, the amount of bonded debt assistance under this section shall not be altered or reduced as a result of refunding the bonds that were issued and outstanding as of January 1, 2005, and the bonded debt assistance shall continue after the refunding based on the principal and interest payment schedule in effect and on file with the Division of Elementary and Secondary Education on January 1, 2005.

(2) Nothing in this subsection shall prevent the annual adjustment of bonded debt assistance under this section in accordance with annual variations in the state wealth index and the school district's principal and interest payment schedule in effect and on file with the Division of Elementary and Secondary Education on January 1, 2005.

(d)(1) The state shall not assume any debt of a school district or incur any obligation with regard to a school district's bonded indebtedness by providing the bonded debt assistance described in this section.

(2) The school district receiving bonded debt assistance under this section is and will remain independently liable for all outstanding indebtedness.

(e) The funded general facilities funding appropriation shall be distributed to the Employee Benefits Division for the exclusive benefit of public school employees participating in the State and Public School Life and Health Insurance Program.

(f) The funded supplemental millage appropriation shall be distributed to the Employee Benefits Division for the exclusive benefit of public school employees participating in the State and Public School Life and Health Insurance Program.

(g) Within thirty (30) days after the satisfaction of a school district's outstanding bonded indebtedness in existence as of January 1, 2005, the school district shall notify the Division of Elementary and Secondary Education that the school district's outstanding bonded indebtedness in existence as of January 1, 2005, has been satisfied, which shall include defeasance, but shall exclude refunding.

History. Acts 2005, No. 2206, § 1; 2007, No. 989, §§ 3-5; 2007, No. 1573, § 33; 2009, No. 1479, § 1; 2011, No. 266, § 1; 2013, No. 322, § 5; 2013 (1st Ex. Sess.), No. 1, §§ 1, 2; 2017, No. 931, § 2; 2019, No. 910, §§ 1701-1705.

A.C.R.C. Notes. Acts 2017, No. 931, § 1, provided: "Legislative findings. The General Assembly finds that:

"(1) Through bonded debt assistance, the state provides school districts financial assistance for the purpose of retiring outstanding bonded indebtedness in existence as of January 1, 2005;

"(2) This bonded debt assistance is necessary to maintain good standing with investors, as bonded debt assistance is restricted to bond payments and was con-

sidered in coverage and in calculation of required debt service mills;

"(3) School district expenditure of savings yielded from refunding these bonds is restricted to the support of academic facilities;

"(4) This restriction creates inefficiencies and is time-consuming to implement because refunding and restructuring the bonds multiple times makes it difficult to track and accurately restrict and report bond savings;

"(5) Any benefit derived from the restrictions is minimal; and

"(6) In the interest of improving efficiency and aligning benefit to cost, the law should be amended to eliminate this restriction by allowing savings realized from

the refunding of bond that were issued and outstanding as of January 1, 2005 bonds to be expended by school districts for any legitimate school or school district purpose.”

Amendments. The 2017 amendment substituted “bonded debt assistance” for “financial assistance” or “state financial assistance” throughout (b) through (d); deleted “or subdivision (b)(3)(B)” following “subdivision (b)(3)(A)” in (b)(2)(C); deleted former (b)(3)(B); redesignated former (b)(3)(C) as (b)(3)(B); in (b)(3)(B), substituted “remaining funded bonded debt assistance appropriation” for “savings”; de-

leted “equal” preceding “installments” in (b)(4)(B)(i); deleted former (c)(1)(B); redesignated former (c)(1)(A)(i) and (ii) as (c)(1)(A) and (B); deleted former (c)(2); redesignated former (c)(3) as (c)(2); rewrote (e) and (f); deleted former (g)(1)(B) and (g)(2), and redesignated former (g)(1)(A) as (g); added “but shall exclude refunding” at the end of (g); and deleted former (h).

The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b)(2)(B) and for “department” throughout the rest of the section.

6-20-2504 — 6-20-2506. [Repealed.]

Publisher’s Notes. These sections, concerning the Academic Facilities Immediate Repair Program, the Academic Equipment Program, and the Transitional Academic Facilities Program, were repealed by Acts 2013, No. 1138, §§ 53-55. The sections were derived from the following sources:

6-20-2504. Acts 2005, No. 2206, § 1; 2007, No. 989, § 6.

6-20-2505. Acts 2005, No. 2206, § 1; 2007, No. 989, § 7.

6-20-2506. Acts 2005, No. 2206, § 1; 2007, No. 989, § 8.

6-20-2507. Academic Facilities Partnership Program.

(a) There is established the Academic Facilities Partnership Program under which the Division of Public School Academic Facilities and Transportation shall provide state financial participation based on a school district’s academic facilities wealth index in the form of cash payments to a school district for eligible new construction projects.

(b)(1) In order to apply for state financial participation in a new construction project, a school district shall provide the Division of Public School Academic Facilities and Transportation with a detailed narrative, description, and justification for the project, a drawing, and evidence of:

(A) Preparation for the new construction project as demonstrated by inclusion of the new construction project in the school district’s facilities master plan;

(B)(i) The adoption of a resolution certifying to the Division of Public School Academic Facilities and Transportation the school district’s dedication of local resources to meet the school district’s share of financial participation in the new construction project.

(ii) The resolution shall specify the approximate date that the board of directors of the school district intends to seek elector approval of any bond or tax measures or to apply other local resources to pay the school district’s share of financial participation in the new construction project;

(C)(i) The total estimated cost of the new construction project that shall be a minimum of three hundred dollars (\$300) per student or one hundred fifty thousand dollars (\$150,000), whichever is less.

(ii) The Division of Public School Academic Facilities and Transportation may waive the minimum requirement under subdivision (b)(1)(C)(i) of this section upon a recommendation by the Director of the Division of Public School Academic Facilities and Transportation to the Commission for Arkansas Public School Academic Facilities and Transportation for the minimum to be waived for cause and a majority of the commission votes to support the waiver;

(D) The new construction project's conformance with sound educational practices;

(E) The new construction project's compliance with current academic facilities standards, including without limitation, appropriate space utilization of the applicable school in the district as determined by the Division of Public School Academic Facilities and Transportation;

(F) The allocation of project costs between new construction activities and maintenance, repair, and renovation activities if the new construction project includes improvements that could be classified as maintenance, repair, and renovation; and

(G) How the new construction project supports the prudent and resourceful expenditure of state funds and improves the school district's ability to deliver an adequate and equitable education to public school students in the district.

(2)(A) Life cycle data is advisory only and shall not be sufficient to support the approval of those items in the list of approved projects or individual items within a project.

(B) The Division of Public School Academic Facilities and Transportation shall require proof of the need to replace the equipment or other item.

(c) The Division of Public School Academic Facilities and Transportation shall use criteria to evaluate a school district's application for state financial participation in a new construction project, which shall include, without limitation, the following:

(1) How the school district's facilities master plan and current academic facilities do not address the following:

(A) Student health and safety, including, without limitation, critical health and safety needs;

(B) Compliance with current academic facilities standards, including, without limitation, appropriate space utilization of existing academic facilities in the district;

(C) Conformance with sound educational practices;

(D) Curriculum improvement and diversification, including, without limitation, the use of instructional technology, distance learning, and access to advanced courses in science, mathematics, language arts, and social studies;

(E) Multischool, multidistrict, and regional planning to achieve the most effective and efficient instructional delivery system;

(F) Reasonable travel time and practical means of addressing other demographic considerations; and

(G) Regularly scheduled and unscheduled maintenance, repair, and renovation as documented in the computerized maintenance management system;

(2) How the school district's facilities master plan and any new construction project under the facilities master plan address the following:

(A) Student health and safety, including, without limitation, critical health and safety needs;

(B) Compliance with current academic facilities standards, including, without limitation, appropriate space utilization of existing academic facilities in the district;

(C) Conformance with sound educational practices;

(D) Curriculum improvement and diversification, including, without limitation, the use of instructional technology, distance learning, and access to advanced courses in science, mathematics, language arts, and social studies;

(E) Multischool, multidistrict, and regional planning to achieve the most effective and efficient instructional delivery system;

(F) Reasonable travel time and practical means of addressing other demographic considerations; and

(G) Regularly scheduled and unscheduled maintenance, repair, and renovation as documented in the computerized maintenance management system;

(3) How the new construction project supports the prudent and resourceful expenditure of state funds and improves the school district's ability to deliver an adequate and equitable education to public school students in the school district;

(4) How the new construction project has been prioritized by the school district; and

(5) The allocation and expenditure of funds in accordance with this subchapter and the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.

(d)(1) The Division of Public School Academic Facilities and Transportation shall notify the school district of the Division of Public School Academic Facilities and Transportation's decision on the application and, if applicable, the estimated amount of state financial participation in the new construction project no later than May 1 of each odd-numbered year.

(2) The Division of Public School Academic Facilities and Transportation's notice of its decision on a school district's application for state financial participation in a new construction project shall include an explanation of the evaluative factors underlying the decision of the Division of Public School Academic Facilities and Transportation to provide or not provide state financial participation in support of the new construction project.

(3) The commission may withdraw committed funds if a school district had funding made available on:

(A) July 1, 2006, and does not begin construction, as evidenced by a signed construction contract, by January 31, 2010; or

(B) July 1, 2007, and does not begin construction, as evidenced by a signed construction contract, by January 31, 2011.

(4) If a construction project has not begun as required under subdivision (d)(3) of this section due to the failure of a school district to raise the school district's share of the project cost due to a failed millage election before June 1, 2009, the Division of Public School Academic Facilities and Transportation may exercise its authority under § 6-21-811.

(e)(1) If the Division of Public School Academic Facilities and Transportation determines that the new construction project is eligible for state financial participation, the Division of Public School Academic Facilities and Transportation and the school district shall enter into an agreement specifying the terms of the state's financial participation and the conditions that must be satisfied by the school district.

(2) At a minimum, the agreement shall:

(A) Identify the estimated amount of local financial participation and state financial participation in the new construction project;

(B) Define the method of and schedule for transferring state financial participation funds to the school district;

(C) Identify whether the new construction project includes any improvements that are classified as maintenance, repair, and renovation and how the project costs will be allocated between new construction activities and maintenance, repair, and renovation activities;

(D) Provide that changes to the plans for the new construction project shall be made in consultation with the Division of Public School Academic Facilities and Transportation;

(E) Provide that the Division of Public School Academic Facilities and Transportation or any person acting on behalf of the Division of Public School Academic Facilities and Transportation may conduct on-site inspections of the new construction project as frequently as the Division of Public School Academic Facilities and Transportation deems necessary to assure the prudent and resourceful expenditure of state funds with regard to public school academic facilities;

(F) Determine how risk will be allocated between the school district and the state if the new construction project is not completed;

(G) Describe how changes in the school district's wealth index over the course of the new construction project will be treated; and

(H) Specify that the agreement is void and the state will have no further obligation to provide state funds to the school district for the new construction project that is the subject of the agreement if the school district does not raise local resources and apply local resources toward the new construction project as provided under the agreement.

(3) If a school district fails to adhere to the timelines as established in subsection (g) of this section, the agreement shall be void and the

state will have no further obligation to provide state funds to the school district for the new construction project under the agreement.

(f)(1)(A) If a school district qualifies for state financial participation under this section, the Division of Public School Academic Facilities and Transportation shall certify the amount of state financial participation to the commission.

(B) The amount of state financial participation under this section is limited to the amount resulting from the application of the academic facilities wealth index to the project cost promulgated by the commission to calculate the cost necessary to bring the academic facility into compliance with the Arkansas Public School Academic Facility Manual under § 6-21-809.

(2)(A) The commission shall certify the amount to the Division of Elementary and Secondary Education for payment, less any withholding or reduction imposed by the commission under § 6-21-114(d) for a school district's failure to comply with the commission's insurance requirements.

(B) For tracking purposes, the school district shall account for the funds received as state financial participation under this section as restricted funds and shall account for the funds in accordance with provisions of law, including without limitation, the Arkansas Educational Financial Accounting and Reporting Act of 2004, § 6-20-2201 et seq., and rules established by the State Board of Education and the commission.

(g)(1) The commission shall establish compliance dates for the:

- (A) Execution of the partnership agreement;
- (B) Start of the project design; and
- (C) Start and ending of construction.

(2) Projects not meeting the compliance dates may be cancelled by the commission, and the state's financial participation, in whole or in part, may be declared void after the school district has been provided:

- (A) A notice of the failure to meet compliance dates; and
- (B) An opportunity for a hearing before the commission.

History. Acts 2005, No. 2206, § 1; 2007, No. 625, § 2; 2007, No. 989, §§ 9-11; 2009, No. 376, § 44; 2009, No. 1473, §§ 10-13; 2017, No. 935, § 4; 2019, No. 910, §§ 1706-1711; 2021, No. 126, §§ 3-5.

Amendments. The 2017 amendment substituted "Life cycle data" for "The life-cycles requirement contained in the state facility assessment of 2004" in (b)(2)(A).

The 2019 amendment substituted "Division of Public School Academic Facilities and Transportation" for "division"

throughout the section; and substituted "Division of Elementary and Secondary Education" for "Department of Education" in (f)(2)(A).

The 2021 amendment substituted "proof of the need to replace the equipment" for "independent proof of the failure of the equipment" in (b)(2)(B); and, in (c)(1)(G) and (c)(2)(G), inserted "and unscheduled" and added "as documented in the computerized maintenance management system".

6-20-2508. Academic Facilities Catastrophic Program.

(a) There is established the Academic Facilities Catastrophic Program under which the Division of Public School Academic Facilities and Transportation shall award state financial participation to a school district based on a school district's academic facilities wealth index for eligible catastrophic repair and new construction projects for the purpose of supplementing insurance or other public or private emergency assistance received by or payable to the school district.

(b) A school district may apply for state financial participation in a catastrophic project if an academic facility in the district is damaged due to an act of God or violence that could not have been prevented by reasonable maintenance, repair, or renovation of the building.

(c) As part of its application for state financial participation in a catastrophic project, the school district shall provide the Division of Public School Academic Facilities and Transportation with evidence of:

- (1) The estimated cost of the project;
- (2) The availability of insurance and any other public or private emergency assistance to pay for the project;
- (3) How the catastrophic project supports the prudent and resourceful expenditure of state funds and improves the school district's ability to deliver an adequate and equitable education to public school students in the district; and
- (4) Proof of full replacement value insurance to include a provision requiring code upgrades.

(d)(1) The Division of Public School Academic Facilities and Transportation shall evaluate a school district's application for catastrophic assistance and may conduct an on-site inspection before making a decision on the application as it deems necessary.

(2) The Division of Public School Academic Facilities and Transportation shall notify the school district of the Division of Public School Academic Facilities and Transportation's decision on the application and, if applicable, the amount of state financial participation. The Division of Public School Academic Facilities and Transportation shall base its decision on several factors, including, without limitation:

- (A) Compliance with appropriate academic facility standards, including, without limitation, appropriate space utilization;
- (B) The amount and availability of insurance or other public or private emergency assistance;
- (C) The academic facilities wealth index of the school district; and
- (D) The prudent and resourceful expenditure of state funds with regard to public school academic facilities.

(e)(1)(A) If a school district qualifies for state financial participation under this section, the Division of Public School Academic Facilities and Transportation shall certify the amount of state financial participation to the Commission for Arkansas Public School Academic Facilities and Transportation.

(B) The amount of state financial participation under this section shall not exceed the amount resulting from the application of the

academic facilities wealth index to the cost necessary to bring the academic facility into compliance with the Arkansas Public School Academic Facility Manual, less any withholding or reduction imposed by the commission under § 6-21-114(d) for a school district's failure to comply with the commission's insurance requirements, including without limitation, the failure to carry replacement cost coverage, if applicable, on all buildings and facilities.

(2)(A) The commission shall certify the amount to the Division of Elementary and Secondary Education for payment.

(B) For tracking purposes, the school district shall account for the funds received as state financial participation under this section as restricted funds and shall account for the funds in accordance with provisions of law, including, without limitation, the Arkansas Educational Financial Accounting and Reporting Act of 2004, § 6-20-2201 et seq., and rules established by the State Board of Education and the commission.

(f) Every effort shall be made to conform a catastrophic project to current academic facilities standards, including appropriate space utilization requirements, unless in the judgment of the Division of Public School Academic Facilities and Transportation it is impractical to conform the catastrophic project to current standards.

(g) A school district shall use state financial participation in a catastrophic program to pay the cost of only the portion of a catastrophic project that is not covered by insurance or other public or private emergency assistance received by or payable to the school district.

History. Acts 2005, No. 2206, § 1; 2007, No. 625, § 3; 2007, No. 989, §§ 12, 13; 2019, No. 910, §§ 1712, 1713.

Amendments. The 2019 amendment substituted "Division of Public School Aca-

ademic Facilities and Transportation" for "division" throughout the section; and substituted "Division of Elementary and Secondary Education" for "Department of Education" in (e)(2)(A).

6-20-2509. Project cost guidelines.

(a)(1) The Division of Public School Academic Facilities and Transportation shall establish formulas that shall be updated annually by the fourth quarter of the calendar year for determining the basic project cost per square foot for various types of new construction projects, including without limitation:

(A) New academic facilities;

(B) Additions to existing academic facilities; and

(C) Major improvements to academic facilities that bring the state of condition or efficiency of the academic facility to a state of condition or efficiency better than the facility's original condition of completeness or efficiency.

(2) In establishing the formulas, the division shall take into consideration:

(A) The academic programs offered;

(B) Current enrollment levels;

- (C) Enrollment projections;
- (D) Grade configuration;
- (E) The type of public school; and
- (F) Nationally recognized design and construction standards for cost per square foot.

(3) The division shall establish a process for determining the cost of local enhancements and shall include a mechanism in the formulas for determining basic project cost that excludes the cost of local enhancements from the qualified project cost.

(b)(1) When a school district applies for state financial participation, the division shall use the appropriate formula to compute a qualified project cost.

(2) The division shall determine the estimated amount of the state's share of financial participation based on the qualified project cost and the school district's wealth index as determined under § 6-20-2502.

History. Acts 2005, No. 2206, § 1; substituted "qualified" for "adjusted" in 2007, No. 989, § 14; 2017, No. 935, §§ 5, (a)(3) and (b)(2); and substituted "a qualified" for "an adjusted" in (b)(1).

Amendments. The 2017 amendment

6-20-2510. Incentives for collaboration.

(a) It is the intent of the General Assembly to encourage school districts to explore and consider arrangements with other districts that have the potential to:

(1) Improve academic facilities and equipment available to the public school students in the districts;

(2) Result in improved transportation arrangements for public school students in the state;

(3) Create any type of efficiency for school districts or enhanced learning opportunities for public school students in the state; and

(4) Facilitate the highest and best use of state funds in support of public school academic facilities.

(b)(1) If school districts voluntarily consolidate or if one (1) school district annexes another school district, the Division of Public School Academic Facilities and Transportation shall use the lowest wealth index of the participating school districts to determine the amount of state financial participation in the first eligible academic facilities project undertaken by the resulting school district.

(2) After the completion of the first academic facilities project, the division shall compute a new wealth index for the resulting district that shall be used to determine the amount of state financial participation in future academic facilities projects undertaken by the resulting school district.

History. Acts 2005, No. 2206, § 1.

6-20-2511. High-growth school districts — Definitions.

(a) As used in this section:

(1) “High-growth school district” means a public school district in which the average daily membership for the public school district in the present school year is four percent (4%) higher than the school year that is two (2) years before the present school year; and

(2) “Maximum expected millage” means ten (10) mills, representing the maximum number of mills that a public school district is expected to raise to service its bonded indebtedness incurred for academic facilities.

(b) There is established the Academic Facilities High-Growth School District Loan Program under which the Division of Elementary and Secondary Education shall provide an interest-free loan to a high-growth school district in which the mills required to service the bonded indebtedness incurred for academic facilities exceed the maximum expected millage for the high-growth school district.

(c)(1) A high-growth school district may apply for an interest-free loan when the high-growth school district has raised the maximum expected millage and the revenue generated from the maximum expected millage is less than the amount required to service the bonded indebtedness incurred for academic facilities.

(2) The amount of the loan shall be the amount of moneys required for academic facilities less the sum of:

(A) The revenues generated by the maximum expected millage; and

(B) The state revenue received by the high-growth school district under the Academic Facilities Partnership Program.

(3) The high-growth school district shall apply for the loan from the Revolving Loan Fund, subject to §§ 6-20-801 — 6-20-816.

(d)(1) When the revenue required to service the bonded indebtedness incurred for the high-growth school district’s academic facilities is less than the revenue generated by maximum expected millage, the high-growth school district shall repay the loan.

(2)(A) The high-growth school district shall make annual payments to the state in the amount of:

(i) The revenue generated by the high-growth school district’s millage up to the amount of the revenues generated from the maximum expected millage for the year; less

(ii) The revenue required to service the high-growth school district’s bonded indebtedness for academic facilities.

(B) The payments under this subsection shall continue until the loan is paid in full.

(3) During the time that the loan to the high-growth school district is in repayment, the high-growth school district:

(A) Shall use all revenues generated below the maximum expected millage to repay the loan;

(B) Shall not issue refunding bonds or refunding certificates, as provided under § 6-20-815; and

(C) Shall not otherwise change the amount of revenues available to repay the loan without the prior approval of the Division of Elementary and Secondary Education.

(e) Within a reasonable time after its receipt, each application under subsection (c) of this section shall be examined by the Division of Elementary and Secondary Education in accordance with rules established by the State Board of Education as to the accuracy of the answers contained therein.

(f)(1) After considering the merits of each application, the Division of Elementary and Secondary Education may, in its discretion, approve the application for the full amount of the proposed loan, approve the application for a loan of a lesser amount than the amount requested, or disapprove the application.

(2) Before approving the application, the Division of Elementary and Secondary Education shall make a determination that the total space available in the high-growth school district is less than the amount needed to accommodate the growth of students.

(g) The Commission for Arkansas Public School Facilities and Transportation shall adopt rules to implement the program established by this section.

(h)(1) The commission shall annually determine which school districts qualify as high-growth school districts under this section.

(2) Annually, by November 1, the commission shall prepare a list of the qualified school districts and:

(A) Submit the list to the House Committee on Education and the Senate Committee on Education; and

(B) Post the list on the website of the Division of Public School Academic Facilities and Transportation.

History. Acts 2005, No. 2206, § 1; 2007, No. 995, § 2; 2015, No. 962, § 1; 2019, No. 910, §§ 1714-1716.

A.C.R.C. Notes. Acts 2007, No. 995, § 1, provided: "Findings. The General Assembly finds that:

"(1) The General Assembly has examined the document 'Arkansas Department of Education, Percent Change in Three-Quarter Average ADMs Over 2 Years – 2005-2006 Required Debt Mills', dated February 28, 2007, and determined that thirty-two (32) of two hundred forty-five (245) school districts are now at or above ten (10) mills of debt service. This would seem to be well within range of school districts in Arkansas needing academic facilities improvements;

"(2) No evidence was presented during the 2006 Act 57 hearings of any school district suffering from a problem related to its inability to raise sufficient mills for academic facilities improvements;

"(3) However, the General Assembly should support a loan program for the next biennium to assist districts that raise ten (10) mills for academic facilities and also have a four percent (4%) increase in growth over the previous two (2) years that is maintained in the present year; and

"(4) This short term loan program will enable the General Assembly to examine the success of this number of mills and the increase in students to resolve the unproven idea that there are school districts that are unable to construct facilities because there is a limit on the number of mills they can raise or should be required to feasibly raise and that growth is the cause."

Acts 2007, No. 995, § 3, provided: "The document attached hereto titled 'Arkansas Department of Education, Percent Change in Three-Quarter Average ADMs Over 2 Years — 2005-2006 Required Debt

Mills', dated February 28, 2007, is specifically adopted by the House Education Committee and the Senate Education Committee and recommended to the General Assembly and shall be filed in the journals of the House and Senate."

Amendments. The 2019 amendment,

in (b), substituted "Division of Elementary and Secondary Education" for "Department of Education" and substituted "exceed" for "exceeds"; and substituted "Division of Elementary and Secondary Education" for "department" in (d)(3)(C), (e), and twice in (f).

6-20-2512. Regulatory authority.

The Commission for Arkansas Public School Academic Facilities and Transportation shall promulgate rules necessary to administer this subchapter, which shall promote the intent and purposes of this subchapter and assure the prudent and resourceful expenditure of state funds with regard to public school academic facilities throughout the state.

History. Acts 2005, No. 2206, § 1.

6-20-2513. Appeals.

(a) A public school district may appeal:

(1) A determination of the Division of Public School Academic Facilities and Transportation under this subchapter to the Academic Facilities Review Board in accordance with procedures developed by the board under § 6-20-2516; and

(2)(A) A decision of the board to the Commission for Arkansas Public School Academic Facilities and Transportation in accordance with procedures developed by the commission.

(B) The public school district shall provide to the board a copy of the request for appeal when it files the request with the commission.

(b) All decisions of the commission resulting from a public school district's appeal of a decision of the board under this subchapter shall be final and shall not be subject to further appeal or request for rehearing to the commission or petition for judicial review under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2005, No. 2206, § 1; 2009, No. 937, § 1; 2011, No. 981, § 13; 2011, No. 1006, § 4.

6-20-2514. Academic Facilities Extraordinary Circumstances Program.

(a) The General Assembly finds that:

(1) In *Lake View School District No. 25 v. Huckabee*, 364 Ark. 398 (2005), the Supreme Court raised concerns that some school districts might not receive any state financial assistance with academic facilities projects because the districts might not have sufficient resources to qualify for state funds under this subchapter, which requires a local contribution based on the relative wealth of the district;

(2) During the 2006 hearings conducted by the House Committee on Education and Senate Committee on Education after the 2005 Supreme Court decision in the Lake View matter, no school district came forward to testify that the district will be unable to adequately repair, renovate, or construct school buildings;

(3) The contention in subdivision (a)(1) of this section, while not without merit as a theory, has not been substantiated. Therefore, the implementation and funding of a program to provide additional state financial assistance to school districts with limited resources is premature; and

(4) While implementation and funding may be premature, the development of a program to provide state financial assistance to eligible school districts that do not have sufficient means to contribute an amount of local resources necessary to qualify for state financial participation should be initiated immediately.

(b)(1) The Commission for Arkansas Public School Academic Facilities and Transportation shall develop by rule the Academic Facilities Extraordinary Circumstances Program under which the Division of Public School Academic Facilities and Transportation shall provide state financial assistance to eligible school districts that do not have sufficient means to contribute an amount of local resources necessary to qualify for state financial participation under the Academic Facilities Partnership Program, § 6-20-2507, or the Academic Facilities Catastrophic Program, § 6-20-2508.

(2) At a minimum, eligibility criteria for the Academic Facilities Extraordinary Circumstances Program shall address:

- (A) School districts with declining enrollment;
- (B) School districts with rapid enrollment growth;
- (C) School districts with insufficient bonding capacity;
- (D) School districts with low assessed-property valuations;
- (E) School districts at or above the ninety-fifth percentile on the academic facilities wealth index; and

(F) Any other circumstance deemed extraordinary by the division.

(3) At a minimum, the application process for the Academic Facilities Extraordinary Circumstances Program shall require a school district to provide the division with evidence of:

- (A) The estimated cost of the project;
- (B) The amount of local resources available to contribute to the project;
- (C) The amount and availability of funds from school district fund balances;
- (D) The amount and availability of other public or private assistance;

(E) Effort made by the school district and the local community to develop and provide local resources; and

(F) How state financial participation, if granted, will support the prudent and resourceful expenditure of state funds and will improve the school district's ability to deliver an adequate and equitable education to public school students in the district.

(c) The division shall report to the House Committee on Education and the Senate Committee on Education by October 15, 2015, on the development of the Academic Facilities Extraordinary Circumstances Program and shall obtain formal legislative approval before implementing the Academic Facilities Extraordinary Circumstances Program.

History. Acts 2006 (1st Ex. Sess.), No. 34, § 1; 2006 (1st Ex. Sess.), No. 35, § 1; 2015, No. 962, § 2.

6-20-2515. Review conferences.

(a) At least one hundred twenty (120) days before the application deadline, a district may request and be granted by the Division of Public School Academic Facilities and Transportation a review conference that shall be held within seventy-five (75) days after the date of request.

(b) The district may be advised through the review conference process by an architectural and engineering firm if the school district pays the cost for the advice from the architectural and engineering firm.

(c) The review conference shall consider the following:

(1) That the proposed project is academic;

(2) The space calculation to be applied to the project if approved;

(3) The preliminary wealth index of the district, subject to change when the annual update is calculated, that will be applied to the partnership project if approved;

(4) The qualified project cost, subject to update no later than March 1 of the odd year, that will be applied to the partnership project if approved;

(5) A projected amount of state funding based on the preliminary wealth index and the qualified project cost, updated no later than March 1 of the odd year, to allow a school district projection of local funding share required; and

(6) Whether or not the proposed application meets all of the technical requirements for partnership applications as set out in the application guidelines and rules provided by the division before each partnership application cycle.

(d) The division shall make a written record of the findings of the review conference and provide a copy of the written record to the school district within five (5) working days after the written record is finalized.

History. Acts 2007, No. 989, § 15; (120)” for “sixty (60)” and “seventy-five 2015, No. 962, § 3; 2017, No. 864, §§ 1, 2. (75) days” for “twenty (20) working days”;

Amendments. The 2017 amendment, and rewrote (c)(2) through (c)(5).
in (a), substituted “one hundred twenty

6-20-2516. Academic Facilities Review Board.

(a) There is established the Academic Facilities Review Board to hear the appeal filed by a public school district under § 6-20-2513(a) of

a determination of the Division of Public School Academic Facilities and Transportation.

(b)(1) The board is composed of five (5) members appointed by the Governor and subject to confirmation of the Senate as follows:

(A)(i) One (1) member who is a licensed building contractor with five (5) years or more of experience in public school construction.

(ii) The Governor shall consult the Arkansas chapter of the Associated General Contractors of America before making an appointment under subdivision (b)(1)(A)(i) of this section;

(B)(i) One (1) member who is a registered architect with at least five (5) years of experience in public school design.

(ii) The Governor shall consult The Arkansas Chapter, the American Institute of Architects before making an appointment under subdivision (b)(1)(B)(i) of this section;

(C)(i) One (1) member who is a licensed or registered engineer with at least five (5) years of experience in public school construction.

(ii) The Governor shall consult the American Council of Engineering Companies of Arkansas and The Arkansas Society of Professional Engineers before making an appointment under subdivision (b)(1)(C)(i) of this section; and

(D)(i) Two (2) members who are selected from the public at large.

(ii) The Governor shall consult the Arkansas Association of Educational Administrators and the Arkansas School Boards Association before making an appointment under subdivision (b)(1)(D)(i) of this section.

(2) A member of the board shall be a resident of this state at the time of appointment and throughout the member's term.

(3) A member of the Commission for Arkansas Public School Academic Facilities and Transportation shall not serve as a member of the commission while serving as a member of the board.

(c)(1)(A) Each member of the board shall serve a term of three (3) years.

(B) The initial members shall draw lots for staggered terms.

(2) The Governor shall appoint any qualified person to fill a position that is vacated before the expiration of a member's term.

(d)(1) The Governor shall designate one (1) member to serve as chair of the board at its organizational meeting.

(2) The chair or the chair's designee shall call an organizational meeting within twenty (20) calendar days after the Governor has appointed all members of the initial board.

(3) At the organizational meeting, the members of the board shall elect a chair, who shall serve as chair for one (1) year.

(4) Annually after the organizational meeting, the board shall elect a new chair.

(e)(1) The board shall meet upon the call of the chair when a hearing is requested by a public school district, but a meeting shall not be held outside of this state.

(2) All action of the board shall be by a majority vote of the quorum present at a meeting.

(3) A majority of the members of the board shall constitute a quorum for the purpose of transacting business.

(f) The Division of Elementary and Secondary Education shall provide staff support for the board's activities.

(g)(1) Members of the board shall serve without pay.

(2) Members of the board may receive expense reimbursement in accordance with § 25-16-902, to be paid by the Division of Elementary and Secondary Education to the extent money is available for that purpose.

(h) The board shall establish policies and procedures for conducting hearings and appeals.

(i)(1) Following the hearing at which all testimony and evidence are presented, the board shall make a final determination accepting, rejecting, or modifying the determination of the Division of Public School Academic Facilities and Transportation.

(2) Within ten (10) business days, the board shall provide to the appellant public school district and to the Division of Public School Academic Facilities and Transportation a notice of the board's final determination.

(3)(A) If the board's final determination will result in a greater level of state financial participation in a project than previously authorized by the Division of Public School Academic Facilities and Transportation, the board's final determination shall be reviewed by the commission in accordance with procedures developed by the commission.

(B) A decision of the commission resulting from a review of a decision of the board under this section is final and is not subject to:

(i) Further appeal to the commission;

(ii) Request for rehearing by the commission; or

(iii) Petition for judicial review under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2009, No. 937, § 2; 2011, No. 1006, § 5; 2015, No. 1100, § 3; 2019, No. 910, § 1717.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of

Education" in (f); substituted "Division of Elementary and Secondary Education" for "department" in (g)(2); and substituted "Division of Public School Academic Facilities and Transportation" for "division" throughout (i).

6-20-2517. Nursing center.

(a) Beginning in the 2017-2019 funding cycle for the Academic Facilities Partnership Program, each new application for a new school building or a major renovation to an existing school building that would normally house a nursing office shall include a school nursing center.

(b) A nursing center shall meet minimum standards for infection control and safe care, including without limitation:

(1) A private office with a door;

(2) Heat and air conditioning;

(3) A telephone;

(4) A sink with hot and cold water;

- (5) An accessible bathroom with a toilet;
- (6) A locking filing cabinet;
- (7) A double-locking medicine cabinet;
- (8) A refrigerator for medications;
- (9) A sharps container and system for the disposal of biohazard waste;
- (10) Personal protection equipment for each nurse, including gowns, masks, and gloves;
- (11) Two (2) cots;
- (12) A computer with internet access;
- (13)(A) An electronic health records system that is compliant with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- (B) The Division of Elementary and Secondary Education may purchase appropriate software that is accessible to a school district depending on the availability of funding;
- (14) First aid and assessment equipment;
- (15) Storage cabinets for first aid and assessment equipment; and
- (16) A desk and office supplies.
- (c) The project minimum required under § 6-20-2507(b)(1)(C) does not apply to a construction project with a school nursing center.
- (d) A school nursing center may be located in a portable classroom.

History. Acts 2015, No. 936, § 1; 2019, No. 910, § 1718. substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b)(13)(B).

Amendments. The 2019 amendment

6-20-2518. [Repealed.]

Publisher’s Notes. This section, concerning the Public School Nurse Facility and Equipment Grant Pilot Program, was repealed by Acts 2019, No. 692, § 10, effective July 24, 2019. The section was derived from Acts 2015, No. 936, § 2.

SUBCHAPTER 26 — ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES
FINANCING ACT OF 2007

SECTION.	SECTION.
6-20-2601. Title.	6-20-2611. Payment of debt service on the bonds.
6-20-2602. Definitions.	6-20-2612. Bonds exempt from state, county, and municipal taxes.
6-20-2603. Authority to issue bonds.	6-20-2613. Refunding bonds.
6-20-2604. Terms and characteristics of bonds.	6-20-2614. Additional powers of commission.
6-20-2605. Purpose of bonds.	6-20-2615. No impairment of bond obligations.
6-20-2606. Resolutions and trust indentures.	6-20-2616. No obligations until bonds issued.
6-20-2607. Form of bond — Signatures.	6-20-2617. Election.
6-20-2608. Sale of bonds.	
6-20-2609. Proceeds of bonds.	
6-20-2610. Full faith and credit of state pledged to repay bonds.	

SECTION.

- 6-20-2618. Effect of election.
 6-20-2619. No waiver of previous authority to issue bonds.
 6-20-2620. Severability.

SECTION.

- 6-20-2621. Cases involving bonds.
 6-20-2622. Construction of subchapter.
 6-20-2623. Issuance of bonds.

A.C.R.C. Notes. Acts 2007, No. 1021, § 1, provided:

“(a) The General Assembly finds:

“(1) Holdings in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002), require the State of Arkansas to provide adequate public school academic facilities for students in the state; and

“(2) It is the duty of the General Assembly to guarantee that adequate funds exist

to meet public school academic facilities needs.

“(b) The purpose of this act is to provide a mechanism for public school academic facilities in the event that moneys on hand are not sufficient to meet facilities needs.”

6-20-2601. Title.

This subchapter shall be known and may be cited as the “Arkansas Public School Academic Facilities Financing Act of 2007”.

History. Acts 2007, No. 1021, § 2.

6-20-2602. Definitions.

As used in this subchapter:

(1) “Bonds” means any bonds, notes, interim certificates, or other evidences of indebtedness;

(2) “Commission” means the Commission for Arkansas Public School Academic Facilities and Transportation or its successor;

(3) “Debt service” means principal, interest, redemption premiums, if any, and trustee’s fees, paying agent’s fees, dissemination agent’s fees, and like servicing fees relative to a bond;

(4) “Develop” means to plan, design, construct, acquire by purchase, own, rehabilitate, lease as lessor or lessee, enter into lease-purchase agreements with respect to, or install or equip any lands, buildings, improvements, machinery, equipment, or other properties of whatever nature, real, personal, or mixed;

(5) “Federal Deposit Insurance Corporation” means the Federal Deposit Insurance Corporation or its successor that insures commercial banks;

(6) “General revenues of the state” means the revenues described and enumerated in § 19-6-201 of the Revenue Classification Law, § 19-6-101 et seq., or in any successor law;

(7) “Nationally recognized rating agency” means Moody’s Investors Service, Inc., Standard & Poor’s, Fitch Ratings, or any other nationally recognized rating agency approved by the State Investing Office; and

(8) “State Investing Office” means the Treasurer of State for the investment of any funds established on the books of the State Treasury,

and the commission for the investment of any funds held outside the State Treasury.

History. Acts 2007, No. 1021, § 2.

6-20-2603. Authority to issue bonds.

(a)(1)(A) The Commission for Arkansas Public School Academic Facilities and Transportation is hereby authorized to issue bonds of the State of Arkansas to be known as State of Arkansas Public School Academic Facilities General Obligation bonds, in total principal amount not to exceed seven hundred fifty million dollars (\$750,000,000), for the purposes of this subchapter.

(B) The limitation on the total principal amount of bonds under subdivision (a)(1)(A) of this section is a limitation on the total principal amount of indebtedness to be repaid by the State of Arkansas.

(2) The bonds may be issued in one (1) or more series as required under this subchapter.

(b) Unless the General Assembly authorizes a greater principal amount to be issued during a fiscal biennium, the total principal amount of bonds to be issued during any fiscal biennium shall not exceed one hundred fifty million dollars (\$150,000,000).

(c)(1) Before any bonds may be issued during a fiscal biennium, the commission shall submit to the Governor a written plan:

(A) Setting forth criteria to be used by the commission in choosing the public school academic facilities projects to be financed with the proceeds derived from the sale of the bonds; and

(B) Requesting authorization for the projected maximum principal amount of bonds required to be issued in the fiscal biennium.

(2) Upon receipt of the written plan, the Governor shall:

(A) Confer with the Chief Fiscal Officer of the State concerning whether the annual amount of general revenue funds required to be set aside from the general revenues of the state under the Revenue Stabilization Law, § 19-5-101 et seq., for payment of debt service requirements in connection with the bonds during either year of the fiscal biennium in which the bonds are to be issued would require moneys from the general revenues of the state that would work undue hardship upon any agency or program supported from the general revenues of the state under the provisions of the Revenue Stabilization Law, § 19-5-101 et seq.; and

(B) Upon compliance with subdivision (c)(2)(A) of this section, obtain the review of:

(i) The Joint Budget Committee if the General Assembly is in session; or

(ii) The Legislative Council if the General Assembly is not in session.

(d)(1) If the Governor deems it to be in the public interest, he or she by proclamation shall authorize the commission to proceed with the

issuance of the bonds in one (1) or more series up to the maximum principal amount for the fiscal biennium approved by the Governor.

(2)(A) If the Governor refuses to give his or her approval for the issuance of the bonds by declining to issue a proclamation approving the issuance, he or she shall promptly notify the commission in writing and the bonds shall not be issued.

(B) The commission may resubmit a request to the Governor for the approval of the issuance of the bonds.

(C) The issue as resubmitted to the Governor shall be dealt with in the same manner as provided for the initial request for authority to issue the bonds.

History. Acts 2007, No. 1021, § 2.

6-20-2604. Terms and characteristics of bonds.

(a) The bonds shall be issued in series in amounts sufficient to finance all or any part of public school academic facility project costs with the respective series to be designated in alphabetical order, or by the year in which issued, or both.

(b)(1) Each series of bonds shall have the date as the Commission for Arkansas Public School Academic Facilities and Transportation determines and shall mature or be subject to mandatory sinking fund redemption as determined by the commission over a period ending not later than thirty (30) years after the date of the bonds of each series.

(2) Pending the issuance of bonds under this subchapter, the commission may issue temporary notes maturing not more than five (5) years from the date of issuance to be exchanged for or paid from the proceeds of bonds when the bonds are issued.

(c)(1) Each series of bonds shall bear interest whether or not subject to federal income taxation at the rate or rates accepted by the commission.

(2) Interest shall be payable at such times as the commission shall determine.

(d) The commission shall determine:

(1) The form of the bonds;

(2) The denomination of the bonds;

(3) Whether the bonds may be exchanged for bonds of another form or denomination bearing the same rate of interest and date of maturity;

(4) Whether the bonds may be payable within or without the state;

(5) Whether the bonds may be subject to redemption before maturity, including:

(A) The manner of redemption; and

(B) The redemption prices; and

(6) Any other terms and conditions of the bonds.

(e) The bonds shall have all the qualities of negotiable instruments or securities under the laws of the state, subject to the provision for registration of ownership.

History. Acts 2007, No. 1021, § 2.

6-20-2605. Purpose of bonds.

Bonds issued under this subchapter shall be issued to finance on a temporary or permanent basis or to develop one (1) or more public school academic facility projects, and the proceeds of the bonds shall be applied to the payment of public school academic facility project costs, the costs and expenses of issuance of the bonds, the repayment of indebtedness incurred to pay public school academic facility project costs, or for refunding of bonds as provided in § 6-20-2613.

History. Acts 2007, No. 1021, § 2.

6-20-2606. Resolutions and trust indentures.

(a) The bonds shall be authorized by resolution of the Commission for Arkansas Public School Academic Facilities and Transportation.

(b) Each resolution shall contain the terms, covenants, and conditions deemed desirable for the bonds, including without limitation conditions pertaining to:

(1) The establishment and maintenance of funds and accounts;

(2) The deposit and investment of revenues and of bond proceeds; and

(3) The rights and obligations of the state, its officers and officials, the commission, and the registered owners of the bonds.

(c) The resolution of the commission may provide for the execution and delivery by the commission of one (1) or more trust indentures with one (1) or more banks or trust companies located within or without the state, containing any of the terms, covenants, and conditions stated in subsection (b) of this section.

(d) A trust indenture shall be binding upon the state and its agencies, officers, and officials to the extent set forth in this subchapter.

History. Acts 2007, No. 1021, § 2.

6-20-2607. Form of bond — Signatures.

(a) Each bond shall:

(1) Be signed with the manual or facsimile signatures of the Governor, the members of the Commission for Arkansas Public School Academic Facilities and Transportation, and the Treasurer of State; and

(2) Have affixed, imprinted, or lithographed on the bond the Seal of the State of Arkansas.

(b) Interest coupons attached to the bonds, if any, shall be signed with the facsimile signature of the Treasurer of State.

(c) Delivery of the bonds and coupons so executed shall be valid notwithstanding any change in persons holding such offices occurring after the bonds have been executed.

History. Acts 2007, No. 1021, § 2.

6-20-2608. Sale of bonds.

(a) The bonds may be sold:

(1) Either at public or private sale in a manner and upon such terms as the Commission for Arkansas Public School Academic Facilities and Transportation determines to be reasonable and expedient for the purposes for which the commission was created; and

(2) At the price the commission determines acceptable, including sale at a discount.

(b) The commission may employ administrative agents, fiscal agents, underwriters, architects, accountants, engineers, and legal counsel and may pay them reasonable compensation from the proceeds of the bonds.

(c) The fees of any trustee or paying agent as well as the costs of publication of notices and of printing of the bonds, official statements, and other documents relating to the sale of the bonds, the fees of any rating agency, and other reasonable costs of issuing and selling the bonds incurred by the commission may be paid from the proceeds of the bonds.

History. Acts 2007, No. 1021, § 2.

6-20-2609. Proceeds of bonds.

(a) The proceeds from the sale of the bonds shall be deposited by the recipient thereof, as received, into trust funds either established in the State Treasury or into accounts established outside the State Treasury in the name of the Commission for Arkansas Public School Academic Facilities and Transportation to accomplish the purposes of this subchapter in amounts or portions as set forth in the resolution or trust indenture authorizing or securing the bonds issued to finance the development of public school academic facilities projects.

(b)(1) There is established as a trust fund in the State Treasury an account designated as the School Academic Facilities Financing Act of 2007 Bond Fund that is being created to provide for payment of all or a part of the debt service in connection with bonds issued under this subchapter.

(2)(A) The Treasurer of State shall establish separate accounts and subaccounts within the fund to correspond to the applicable series of bonds.

(B) In addition, there may be created in the State Treasury such other funds, accounts, or subaccounts as the commission may determine to be necessary to accomplish the purposes of this subchapter.

(c)(1) All procedures and methods for the application of proceeds of any series of bonds to the financing of public school academic facilities project costs shall be set forth in writing.

(2) The writings shall be maintained as a part of the records of the commission.

(d) The proceeds from the sale of the bonds and any moneys in the bond fund may be invested and reinvested by the State Investing Office in any of the following:

(1) Direct obligations of the United States of America, including obligations issued or held in book-entry form on the books of the United States Department of the Treasury or obligations that are unconditionally guaranteed as to principal and interest by the United States of America;

(2) Bonds, debentures, notes, or other evidences of indebtedness issued or guaranteed by any agencies of the United States Government that are backed by the full faith and credit of the United States of America;

(3) Senior debt obligations issued or guaranteed by agencies of the United States Government that are non full-faith and credit agencies;

(4) Money market funds investing exclusively in the investments described in subdivision (d)(1), subdivision (d)(2), or subdivision (d)(3) of this section;

(5) Certificates of deposit providing for deposits secured at all times by collateral described in subdivision (d)(1), subdivision (d)(2), or subdivision (d)(3) of this section if:

(A) The certificates of deposit are issued by commercial banks whose deposits are insured by the Federal Deposit Insurance Corporation and whose collateral is held by a third party; and

(B) The State Investing Office or its assigns have a perfected first security interest in the collateral;

(6) Certificates of deposit, savings accounts, deposit accounts, or money market deposits, all of which are fully insured by the Federal Deposit Insurance Corporation;

(7) Bonds or notes issued by the state or any municipality, county, school district, community college district, or regional solid waste management district in the state or any agency or instrumentality of the state;

(8) Investment agreements with financial institutions or insurance companies that are rated in one (1) of the two (2) highest rating categories of a nationally recognized rating agency;

(9) Repurchase agreements providing for the transfer of securities from a dealer bank or securities firm to the State Investing Office and the transfer of cash from the State Investing Office to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the State Investing Office in exchange for the securities at a specified date if the repurchase agreements satisfy the following criteria:

(A) Repurchase agreements must be between the State Investing Office and a dealer bank or securities firm described as follows:

(i) Dealers with at least one hundred million dollars (\$100,000,000) in capital; or

(ii) Banks whose deposits are insured by the Federal Deposit Insurance Corporation; and

(B) The written repurchase agreement contract must include the following:

(i) Securities that are acceptable for transfer are those listed in subdivision (d)(1), subdivision (d)(2), or subdivision (d)(3) of this section;

(ii) The term of the repurchase agreement may be up to thirty (30) days;

(iii) The collateral must be delivered to the State Investing Office, to a trustee if the trustee is not supplying the collateral, or to a third party acting as agent for the trustee if the trustee is supplying the collateral, before or at the time of the payment and perfection by possession of certificated securities; and

(iv)(a) The securities must be valued weekly, market-to-market at current market price plus accrued interest.

(b) The value of collateral must be equal to one hundred three percent (103%) of the amount of cash transferred by the State Investing Office to the dealer bank or security firm under the repurchase agreement plus accrued interest.

(c) If the value of securities held as collateral declines below one hundred three percent (103%) of the value of the cash transferred by the State Investing Office, then additional cash, acceptable securities, or a combination of cash and securities must be transferred and held by the State Investing Office; and

(10) Any other investment authorized by state law.

History. Acts 2007, No. 1021, § 2.

6-20-2610. Full faith and credit of state pledged to repay bonds.

The bonds shall be the direct general obligations of the state for the payment of debt service on which the full faith and credit of the state are irrevocably pledged so long as any such bonds are outstanding. The bonds shall be payable from the general revenues of the state, and the amount of general revenues of the state as is necessary is and shall remain pledged to the payment of debt service on the bonds.

History. Acts 2007, No. 1021, § 2.

6-20-2611. Payment of debt service on the bonds.

(a)(1) On or before the commencement of each fiscal year, the Chief Fiscal Officer of the State shall determine the estimated amount required for payment of all or a part of the debt service on the bonds issued under this subchapter during the fiscal year to determine what amount of general revenues of the state will be required.

(2) The Chief Fiscal Officer of the State shall certify the estimated amount to the Treasurer of State.

(3) The Treasurer of State shall then make monthly transfers from the State Apportionment Fund to the School Academic Facilities Financing Act of 2007 Bond Fund of the amount of general revenues of

the state required to pay the maturing debt service on bonds issued under this subchapter.

(b)(1) The obligation to make monthly transfers of general revenues of the state from the State Apportionment Fund to the School Academic Facilities Financing Act of 2007 Bond Fund shall constitute a first charge against the general revenues of the state before all other uses to which the general revenues of the state are devoted, either under present law or under any laws that may be enacted in the future.

(2) However, to the extent other general obligation bonds of the state have been issued or may subsequently be issued, all general obligation bonds shall rank on a parity of security with respect to payment from general revenues of the state.

(c) Moneys credited to the School Academic Facilities Financing Act of 2007 Bond Fund shall be used only to pay debt service on the bonds, either at maturity or upon redemption before maturity and for such purposes the Treasurer of State is designated disbursing officer to administer such funds in accordance with this subchapter.

(d) Moneys in the School Academic Facilities Financing Act of 2007 Bond Fund over and above the amount necessary to ensure the prompt payment of debt service on the bonds and the establishment and maintenance of a reserve fund, if any, may be used for the redemption of bonds before maturity under the provisions pertaining to redemption before maturity, as set forth in the resolution or trust indenture authorizing or securing the bonds.

History. Acts 2007, No. 1021, § 2.

6-20-2612. Bonds exempt from state, county, and municipal taxes.

Bonds and the interest on the bonds issued under this subchapter are exempt from state, county, and municipal taxes, including income taxes, inheritance taxes, and property taxes. The bonds shall be eligible to secure deposits of all public funds and shall be legal for investment of bank funds, fiduciary funds, insurance company funds, trust funds, and public funds.

History. Acts 2007, No. 1021, § 2.

6-20-2613. Refunding bonds.

(a)(1) Bonds may be issued under this subchapter to refund any outstanding bonds issued under this subchapter.

(2) Bonds issued under this section:

(A) Do not require the Commission for Arkansas Public School Academic Facilities and Transportation to submit a written plan to the Governor under § 6-20-2603(c); and

(B) Are not subject to the requirements for the approval and proclamation of the Governor under § 6-20-2603(d).

(b)(1) The refunding bonds may be either sold for cash or delivered in exchange for the outstanding obligations.

(2) If sold for cash, the proceeds may be applied to the payment of the obligations refunded or may be deposited in irrevocable trust for the retirement of the outstanding obligations either at maturity or on an authorized redemption date.

(c)(1) Refunding bonds shall in all respects be authorized, issued, and secured as provided for the bonds being refunded and shall have all the attributes of the refunded bonds.

(2) To the extent that the refunding bonds are not in a greater principal amount than the outstanding principal amount of the bonds being refunded, the principal amount of the refunding bonds shall not be subject to the limit of seven hundred fifty million dollars (\$750,000,000) set forth in § 6-20-2603(a) or the limit of one hundred fifty million dollars (\$150,000,000) set forth in § 6-20-2603(b).

(d) The resolution or trust indenture under which the refunding bonds are issued shall provide that any refunding bonds shall have the same priority of payment as the obligations refunded.

History. Acts 2007, No. 1021, § 2.

6-20-2614. Additional powers of commission.

In addition to powers conferred under other laws, the Commission for Arkansas Public School Academic Facilities and Transportation may take appropriate action to carry out the purposes of this subchapter.

History. Acts 2007, No. 1021, § 2.

6-20-2615. No impairment of bond obligations.

(a) This subchapter constitutes a contract between the state and the registered owners of all bonds issued under this subchapter.

(b) The contract shall never be impaired, and any violation of its terms whether under purported legislative authority or otherwise shall be enjoined by the courts at the suit of any bondholder or any taxpayer.

(c) In like suit against the Commission for Arkansas Public School Academic Facilities and Transportation, the Treasurer of State, or other appropriate agency, officer, or official of the state, the courts shall prevent a diversion of any revenues pledged under this subchapter and shall compel the restoration of diverted revenues by injunction or mandamus.

(d) Without limiting any other appropriate remedy at law or in equity, a bondholder may, by an appropriate action including without limitation injunction or mandamus, compel the performance of all covenants and obligations of the state, its officers and officials, under this subchapter.

History. Acts 2007, No. 1021, § 2.

6-20-2616. No obligations until bonds issued.

This subchapter shall not create any right of any character unless the first series of bonds authorized by this subchapter has been sold and delivered.

History. Acts 2007, No. 1021, § 2.

6-20-2617. Election.

(a)(1)(A) Bonds shall not be issued under this subchapter except with the consent of a majority of the qualified electors of the state voting on the question in substantially the form described in this section at any general election as determined by the Governor, unless the Governor by proclamation calls a special election concerning the issuance of bonds under this subchapter.

(B) If the Governor does not place the issue on the ballot at any general election or call a special election concerning the issuance of bonds under this subchapter on or before June 30, 2011, the provisions of this subchapter shall be void, and no bonds shall be issued.

(2) If the question is presented at a general election, notice thereof shall be published by the Secretary of State by one (1) insertion in a newspaper of general circulation in the state at least sixty (60) days before the general election, and notice thereof shall be mailed to each county board of election commissioners and the sheriff of each county at least sixty (60) days before the general election.

(3) If a special election is called by the Governor, the proclamation of the special election shall be made at least sixty (60) days before the date fixed by the proclamation for the election, and notice of the special election shall be given by publication of the proclamation for one (1) insertion in one (1) newspaper of general circulation published in each county in the state not less than thirty (30) days before the date of the special election.

(4) If there is no newspaper regularly published in a county, the proclamation may be published in any newspaper having a general circulation in the county.

(b) In the case of the notice or proclamation for the election, it shall not be necessary to publish this subchapter in its entirety, but the notice or proclamation shall state that it is issued to submit to the people substantially the following question:

“Shall the commission be authorized to issue General Obligation bonds under the authority of the Arkansas Public School Academic Facilities Financing Act of 2007, for the financing of public school academic facilities to serve the citizens of the State of Arkansas, in total principal amount not to exceed seven hundred fifty million dollars (\$750,000,000) in series from time to time in principal amounts not to exceed, without prior approval of the General Assembly, one hundred fifty million dollars (\$150,000,000) in any fiscal biennium, which bonds shall be secured by a pledge of the full faith and credit of the State of Arkansas?”.

(c) Whether the question is presented at a general election or at a special election, the title of this subchapter shall be the ballot title, and there shall be printed on the ballot the proposition as stated above and the following:

“FOR Issuance of State of Arkansas Public School Academic Facilities General Obligation bonds _____

AGAINST Issuance of State of Arkansas Public School Academic Facilities General Obligation bonds _____”.

(d)(1) The county boards of election commissioners of the several counties of the state shall hold and conduct the election, and each board may take action with respect to the appointment of election officials and other matters as the law requires.

(2) The vote shall be canvassed and the result declared in each county by the county boards of election commissioners.

(3) Within ten (10) days after the date of the election the results shall be certified by the county boards of election commissioners to the Secretary of State who shall tabulate all returns received by him or her and certify to the Governor the total vote for and against the proposition submitted under this section.

(e) The result of the election shall be proclaimed by the Governor by publication one (1) time in a newspaper published in the City of Little Rock, Arkansas, and the results as proclaimed shall be conclusive unless attacked in the courts within thirty (30) days after the date of the publication.

History. Acts 2007, No. 1021, § 2.

6-20-2618. Effect of election.

(a) If a majority of the qualified electors voting on the question vote for the issuance of the bonds, the Commission for Arkansas Public School Academic Facilities and Transportation shall proceed with the sale and the issuance of the bonds as provided in this subchapter.

(b) If a majority of the qualified electors voting on the question vote against the issuance of the bonds, the bonds authorized by this subchapter shall not be sold or issued, and this subchapter shall be of no further effect.

History. Acts 2007, No. 1021, § 2.

6-20-2619. No waiver of previous authority to issue bonds.

This subchapter shall not constitute a waiver of the authority to issue bonds under any other legislation authorizing the issuance of bonds for similar purposes.

History. Acts 2007, No. 1021, § 2.

6-20-2620. Severability.

If, for any reason, any section or provision of this subchapter shall be held to be unconstitutional or invalid for any reason, such holding shall not effect the remainder of this subchapter, but this subchapter, insofar as it is not in conflict with the Arkansas Constitution or the United States Constitution, shall be permitted to stand, and the various provisions of this subchapter are hereby declared to be severable for that purpose.

History. Acts 2007, No. 1021, § 2.

6-20-2621. Cases involving bonds.

A case involving the validity of this subchapter or involving the bonds issued under this subchapter shall be deemed of public interest and shall be advanced by all courts and heard as a preferred cause, and all appeals from judgments or decrees rendered in such cases shall be taken within thirty (30) days after rendition of the judgment or decree.

History. Acts 2007, No. 1021, § 2.

6-20-2622. Construction of subchapter.

(a) This subchapter shall be liberally construed to accomplish its purposes. This subchapter shall constitute the sole authority necessary to accomplish the purposes of this subchapter, and to this end it shall not be necessary that the provisions of other laws pertaining to the development of public facilities and properties and the financing thereof be complied with.

(b) This subchapter shall be interpreted to supplement existing laws conferring rights and powers upon the Commission for Arkansas Public School Academic Facilities and Transportation, and the rights and powers set forth in this subchapter shall be regarded as alternate methods for the accomplishment of the purposes of this subchapter.

History. Acts 2007, No. 1021, § 2.

6-20-2623. Issuance of bonds.

No bonds shall be issued under this subchapter before July 1, 2009.

History. Acts 2007, No. 1021, § 2.

CHAPTER 21

SCHOOL PROPERTY AND SUPPLIES

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. EQUAL ACCESS ACT.
3. ACQUISITION OF COMMODITIES GENERALLY.

SUBCHAPTER.

4. FREE TEXTBOOK ACT OF 1975.
5. PUBLIC RECREATION AND PLAYGROUNDS.
6. MISCELLANEOUS OFFENSES.
7. SCHOOL MOTOR VEHICLE INSURANCE ACT.
8. ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES PROGRAM ACT.

RESEARCH REFERENCES

- Am. Jur.** 67B Am. Jur. 2d, Schools,
 § 81 et seq.
C.J.S. 78 C.J.S., Schools, § 510 et seq.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 6-21-101. Authority to permit use of public school buildings for community purposes.
- 6-21-102. Donation of laboratory equipment seized under drug paraphernalia law.
- 6-21-103. Authority to contract for military training equipment — Costs.
- 6-21-104. Distribution of surplus commodities in school lunch program.
- 6-21-105. Braille and large print textbooks.
- 6-21-106. Fire hazards inspection before closing for breaks.
- 6-21-107. Official computer use policy — Definitions.
- 6-21-108. School districts authorized to own and convey real property — Donation of property for educational purposes and beneficial educational services only.

SECTION.

- 6-21-109. Rules governing public works projects — Definition.
- 6-21-110. Rules governing disposition of school property — Definitions.
- 6-21-111. Appropriate computer usage for minors — Definitions.
- 6-21-112. Division of Public School Academic Facilities and Transportation.
- 6-21-113. Advisory Committee on Public School Academic Facilities.
- 6-21-114. Commission for Arkansas Public School Academic Facilities and Transportation — Created.
- 6-21-115. Name of division — Operation — Director.
- 6-21-116. Tornado shelter construction.
- 6-21-117. Leased academic facilities.
- 6-21-118. Taxation of public school buildings — Definition.
- 6-21-119. Water bottle filling stations — Definitions.

Effective Dates. Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such

districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate

effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1955, No. 176, § 3: Mar. 8, 1955. Emergency clause provided: "It is hereby determined by the General Assembly that the educational institutions of this State that offer military training are in need of immediate passage of law authorizing such agencies to enter into agreements with the Federal Government relative to the use of property and equipment in such military training courses, and that the passage of this act is necessary to grant such authority. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 249, § 13: July 1, 1985. Emergency clause provided: "It is hereby found and determined by the Seventy-Fifth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1985 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1985 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1985."

Acts 2001, No. 912, § 3: Mar. 19, 2001. Emergency clause provided: "It is found and determined by the General Assembly that the establishment of internet use policies for our public schools and libraries is vital; and that until this act goes into effect, minors will not be afforded the protection which will result from this act. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved

nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003 (2nd Ex. Sess.), No. 90, § 5: emergency clause failed to pass. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002), declared the now existing system of education to be unconstitutional because it is both inequitable and inadequate; the Arkansas Supreme Court set forth the test for a constitutional system to be a system in which the state has an 'absolute duty' to provide an 'equal opportunity to an adequate education'; and that this act is immediately necessary because the Arkansas Supreme Court instructed the General Assembly to define and provide what is necessary to provide an adequate and equitable education for the children of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 1327, § 8: Mar. 29, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has determined that current public school academic facilities in Arkansas are inadequate and inequitable; that the General Assembly established the Joint Committee on Educational Facilities to inventory the current condition of public school academic facilities and recommend methods for bringing those facilities into conformity with the court's constitutional expectations; that the Division of Public School Academic Facilities and Transportation is charged with the administration of a comprehensive state program for overseeing the provision of constitutionally appropriate public school

academic facilities across the state; and that the division must be given authority to immediately begin work on developing programs to provide constitutionally appropriate public school academic facilities for the benefit of public school students in the State of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 1424, § 3: Mar. 30, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has determined that current public school academic facilities in the State of Arkansas are inadequate and inequitable; that the General Assembly established the Joint Committee on Educational Facilities to inventory the current condition of school facilities and recommend methods for bringing those facilities into conformity with the court's constitutional expectations; that one of the recommendations of the joint committee is to authorize the Division of Public School Academic Facilities to begin work immediately as a viable state agency; that the new division immediately needs, and will continue to need, the advice of an advisory committee comprised of members with expertise in public school design and construction and with issues particular to providing adequate and equitable public school academic facilities; that an advisory committee with the necessary expertise does not currently exist; that in response to the work of the joint committee, the General Assembly is in the process of developing and enacting legislation designed to establish a comprehensive program for overseeing the provision of adequate and substantially equal public school academic facilities across the state; that the General Assembly immediately needs, and will continue to need, the advice of an organized legislative committee comprised of members with expertise in issues particular to providing adequate and equitable public school academic fa-

cilities; and that an organized legislative committee with the necessary expertise does not currently exist. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2005, No. 1672, § 6: July 1, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the study of staffing needs conducted pursuant to Act 64 of the Second Extraordinary Session of 2003 determined that the Department of Education is in need of reorganization; that this act would reorganize the department to help the department become more efficient and effective; and that to aid an orderly transition this act should become effective at the beginning of the next fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005."

Identical Acts 2006 (1st Ex. Sess.), Nos. 32 and 33, § 4: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court declared the public school funding system to be inadequate and that the public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity the General Assembly must guarantee the provision of adequate academic facilities; and that the continued existence of the Commission for Arkansas Public School Academic Facilities and Transportation will assist the state in its efforts to guarantee adequate academic facilities for students throughout the state. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during

which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2007, No. 625, § 4: Mar. 28, 2007. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the state’s public schools in some cases may not be adequately insured to provide for the rebuilding of classrooms and facilities and continuing the provision of a quality education; that uninsured losses harm the state’s ability to establish and maintain appropriate educational facilities for its students; and that this act is necessary to ensure that the Commission for Arkansas Public School Academic Facilities and Transportation in consultation with the Insurance Commissioner examine and address the state’s public facility insurance needs to immediately address any deficiencies and maximize the state’s educational resources. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2007, No. 751, § 38: July 1, 2007. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act dissolves and transfers the duties of the Executive Chief Information Officer, Chief Information Officer, and Office of Information Technology; and that dissolving the offices at the beginning of the state’s fiscal year will result in a more efficient transfer of responsibilities and funds. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007.”

Identical Acts 2015 (1st Ex. Sess.), Nos. 7 and 8, § 153: July 1, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Building Authority, the Arkansas Science and Technology Authority, the Department of Rural Services, and the Division

of Land Surveys of the Arkansas Agriculture Department are inefficiently structured; that this inefficient structuring causes an excessive and unnecessary cost to the taxpayers of the this state; and that this act is essential to alleviating that financial burden. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2015.”

Acts 2017, No. 801, § 7: Apr. 1, 2017. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Division of Public School Academic Facilities and Transportation needs an advisory committee with the necessary expertise in order to effectively carry out its mission; that clarity is needed in the law as to which entity has appointment authority over new members of the Advisory Committee on Public School Academic Facilities; that the State of Arkansas is in need of a comprehensive review of academic facilities programs to ensure that the most efficient and effective programs are in place; and that this act is immediately necessary in order to constitute an advisory committee to immediately begin the work required in this act. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should

become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through

6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-21-101. Authority to permit use of public school buildings for community purposes.

(a) The General Assembly finds that the use of a public school facility under this section:

(1) Promotes the education, health, and well-being of the communities where schools are located; and

(2) Is an intended purpose for the use of school property under Arkansas Constitution, Article 14, § 2.

(b)(1) The board of directors of a school district may permit members of the community to use land or public school facilities owned or operated by the school district for a community purpose, including without limitation:

(A) A social event;

(B) A civic event;

(C) Recreation;

(D) Health and wellness activities; and

(E) A lawful meeting of the citizens of the community.

(2) Community activities permitted at school facilities or on school land shall not interfere with an instructional day at the school where the community activities are held.

(c) To offset the cost of community use of school land or a public school facility, a school district may:

(1) Charge a fee;

(2) Accept gifts, grants, and donations from private sources, from municipal and county governments, from the state, and from the United States Government; or

(3) Enter into a joint use agreement with a public agency, public entity, private entity, or nonprofit organization for shared use and responsibility of the school land or public school facility.

History. Acts 1931, No. 169, § 174; Pope's Dig., § 11616; A.S.A. 1947, § 80-517; Acts 2013, No. 1507, § 1.

CASE NOTES

Operation of Tuition School.

A school board is authorized to permit the use of a public school building by teachers for the purpose of operating a

tuition school after the closing of a public free school on account of the exhaustion of school funds. *Burrow v. Pocahontas School Dist.*, 190 Ark. 563, 79 S.W.2d 1010 (1935).

6-21-102. Donation of laboratory equipment seized under drug paraphernalia law.

Any triple-beam balance or analytical balance or other laboratory equipment seized under Arkansas's drug paraphernalia law, or any other law, may be donated by the seizing authority to any public school in this state.

History. Acts 1991, No. 272, § 1.

Publisher's Notes. Former § 6-21-102, concerning authority to permit use of public school buildings by private schools, was repealed by Acts 1989, No. 950, § 1.

The former section was derived from Acts 1875 (Adj. Sess.), No. 46, § 77, p. 55; C.&M. Dig., § 8934; Pope's Dig., § 11725; A.S.A. 1947, § 80-518.

6-21-103. Authority to contract for military training equipment — Costs.

(a) Each school district board of directors in the State of Arkansas shall have authority:

(1) To enter into contracts for the use of property and equipment for military training purposes;

(2) To enter into any mutually agreeable contract incidental thereto as may be required by federal law or regulations of the United States Secretary of the Army, the United States Secretary of the Navy, or the United States Secretary of the Air Force, or other federal officer or agency, for the care and safekeeping of the property and equipment, or for similar purposes; and

(3) To make reimbursement for the property and equipment.

(b)(1) The cost of any bonds or security and reimbursements shall be paid from funds available for the operation of the school district.

(2) This includes, but is not limited to, the authority to obligate any funds available, whether by appropriation or otherwise, for the purpose of executing bonds to secure the safekeeping and return of United States Government property issued in connection with military training purposes.

History. Acts 1955, No. 176, § 1; A.S.A. 1947, § 80-3317.

Publisher's Notes. Acts 1955, No. 176, § 1, is also codified as § 6-62-102.

6-21-104. Distribution of surplus commodities in school lunch program.

Upon the request of the State Board of Education and with the approval of the Secretary of the Department of Finance and Administration, the Department of Finance and Administration may administer the program of distribution of surplus commodities in the school lunch program under such arrangements with respect to the employment of personnel and the payment of the salaries of personnel, and maintenance, as may be mutually agreeable with the agencies above mentioned.

History. Acts 1953, No. 542, § 6; A.S.A. 1947, § 80-131.1; Acts 2019, No. 910, § 3368.

Amendments. The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration".

6-21-105. Braille and large print textbooks.

(a) It is declared to be the duty of the Arkansas School for the Blind to provide braille and large print textbooks for blind and visually impaired students attending public schools in this state.

(b) The superintendents of school districts shall make application to the Superintendent of the Arkansas School for the Blind for textbooks of braille and large print when students in school districts qualify for such books and the requested textbooks are required for other students in the district.

History. Acts 1985, No. 249, §§ 8, 9; A.S.A. 1947, §§ 80-1768, 80-1769.

6-21-106. Fire hazards inspection before closing for breaks.

(a)(1)(A) At least seven (7) calendar days before the beginning of Christmas break, a local official of each public elementary and secondary school in this state shall request an inspection of the premises by the fire department providing fire protection to the school buildings.

(B) If the chief executive officer of the fire department receives the request at least seven (7) calendar days before the beginning of Christmas break, he or she shall cause the school buildings to be inspected for fire hazards.

(C) The inspection shall be conducted before the beginning of Christmas break.

(2)(A) At least seven (7) calendar days before the end of the school year, a local official with each public elementary and secondary school in this state shall request an inspection of the premises by the fire department providing fire protection to the school buildings.

(B) If the chief executive officer of the fire department receives the request at least seven (7) calendar days before the end of the school year, he or she shall cause the buildings to be inspected for fire hazards.

(C) The inspection shall occur before the end of the school year.

(b) The chief executive officer of the fire department shall file a written report of the inspection with the local official for the school district where the public school building is located within ten (10) calendar days after the inspection.

(c) The inspection shall be conducted at no cost to the school.

(d)(1) The local official shall file a written report with the chief executive officer of the fire department within seven (7) calendar days after receiving the inspection report.

(2) The local official's report shall indicate:

(A) What action was taken in response to the inspection report and the date the action was completed; or

(B) What action will be taken in response to the inspection report and the anticipated date of completion of the action.

(3) If the inspection report of the fire department includes deficiencies that require a response or other action, the local official for the school district shall also file the report required by this subsection with the State Fire Marshal Enforcement Section.

(e)(1)(A) If the local official for the school district does not receive a written inspection report for a public school building as required by this section from the chief executive officer of the fire department providing fire protection to the public school building, the local official shall notify:

(i) The State Fire Marshal Enforcement Section; and

(ii) The quorum court of the county in which the fire department is located.

(B) The local official for the school district shall provide the notifications required by this subdivision (e)(1) not less than thirty (30) days from the date the inspection was required to take place.

(2) The quorum court shall withhold from a fire department that is the subject of notification under this subsection the fire department's apportionment of distributions from the Fire Protection Premium Tax Fund under § 14-284-403 until the fire department completes the inspection and delivers the report to the local official.

(3) If the required inspection is subsequently performed, the fire department shall file the report required under subsection (b) of this section with the local official and the State Fire Marshal Enforcement Section.

(4)(A) Immediately upon receipt of the required report from the fire department, the local official for the school district shall notify the quorum court that the required report has been received.

(B) Upon receipt of the local official's notification to the quorum court, the quorum court shall disburse any Fire Protection Premium Tax Fund apportionment previously withheld due to the fire department's ineligibility under this section.

(f) The chief executive officer of the fire department may inspect any work performed by or on behalf of the school or school district to correct deficiencies noted in the inspection report.

(g) The chief executive officer of the fire department shall notify the State Fire Marshal Enforcement Section and the Division of Elementary and Secondary Education if:

(1) The chief executive officer of the fire department does not receive the local official's report required under subsection (d) of this section, within seven (7) days of the date the report was due; or

(2) The school district does not correct all deficiencies noted in the inspection report by the completion date indicated in the local official's report.

(h)(1) Any person who intentionally violates this section is subject to a fine not to exceed one hundred dollars (\$100) per violation.

(2) The failure of a public school local official for the school district to respond as provided in subsection (d) of this section to correct the deficiencies noted in an inspection report is an indicator of facilities distress under § 6-21-811.

History. Acts 1987, No. 152, §§ 1, 2; 1989, No. 411, § 1; 1995, No. 1296, § 28; 2005, No. 1994, § 68; 2007, No. 538, § 1; 2009, No. 376, § 45; 2017, No. 935, § 7; 2019, No. 910, § 1719.

Amendments. The 2017 amendment redesignated (a)(1) as (a)(1)(A)-(C); redesignated (a)(2) as (a)(2)(A)-(C); substituted “a local official” for “the school superintendent” in (a)(1)(A); substituted “a local official with” for “the school superintendent of” in (a)(2)(A); substituted “local official” for “superintendent” in (b) and made similar changes throughout the rest of the

section; inserted “conducted” in (c); deleted “superintendent’s” preceding “report required” in (d)(3); and made stylistic changes.

The 2019 amendment substituted “of the Division of Arkansas State Police and the Division of Elementary and Secondary Education” for “of the Department of Arkansas State Police and the Department of Education” in the introductory language of (g).

Cross References. State Fire Prevention Commission, § 20-22-201 et seq.

6-21-107. Official computer use policy — Definitions.

(a)(1) The board of directors of each school district in this state shall develop and adopt a written policy concerning student and staff use of computers owned by the school district.

(2) The written policy shall state that a system to prevent computer users from accessing material harmful to minors shall be established and maintained for all public access computers in the school district. The policy shall be implemented by August 1, 2001.

(b) The written policy shall include provisions for administration of punishment of students for violations of the policy with stiffer penalties for repeat offenders, and the same shall be incorporated into the school district’s written student discipline policy.

(c) Students shall sign a computer-use agreement form outlining proper and improper use of public access computers before being allowed to access the computer equipment.

(d) For purposes of this section:

(1) “Harmful to minors” has the same meaning as prescribed in § 5-68-501; and

(2) “Public access computer” means a computer that:

(A) Is located in a public school or public library;

(B) Is accessible by a minor; and

(C) Is connected to any computer communication system such as, but not limited to, what is commonly known as the internet.

History. Acts 1997, No. 801, § 1; 2001, No. 912, § 1.

Cross References. Public library computer use policy, § 13-2-103.

6-21-108. School districts authorized to own and convey real property — Donation of property for educational purposes and beneficial educational services only.

(a) In addition to the authority of school districts under § 6-13-620, a school district board of directors may acquire and hold real estate, tenements, hereditaments, and other real property necessary for the education of students and the administration of the school district.

(b)(1) If the board of directors for a school district determines that real property owned or controlled by the school district is not required for the present or future needs of the school district and that the donation of the real property would serve a beneficial educational service for the citizens of the school district, then the school district may donate real property to a publicly supported institution of higher education, a technical institute, a community college, a not-for-profit organization, a county, a city, an incorporated town, or any entity thereof for the following limited purposes:

(A) Having the real property preserved, improved, upgraded, rehabilitated, or enlarged by the donee;

(B) Providing a publicly supported institution of higher education, a technical institute, or a community college with the donated property in which to hold classes; or

(C) Providing community programs and beneficial educational services, social enrichment programs, or after-school programs.

(2) A school district may donate the fee simple title and absolute interest in real property, without any reservations or restrictions to the real property, to a publicly supported institution of higher education, a technical institute, a community college, a not-for-profit organization, a county, a city, an incorporated town, or any entity thereof.

(3) If two (2) years after the effective date of consolidation the real property of the consolidated school district is not used by the school district for educational purposes and has not been sold, preserved, leased, or donated, the school district board of directors shall make the real property available to a publicly supported institution of higher education, a technical institute, a community college, a not-for-profit organization, a county, a city, an incorporated town, or any entity thereof, by donation or low-cost long-term lease, for the following limited purposes:

(A) Having the real property preserved, improved, upgraded, rehabilitated, or enlarged by the donee;

(B) Providing a publicly supported institution of higher education, a technical institute, or a community college with the donated property in which to hold classes; or

(C) Providing community programs and beneficial educational services, social enrichment programs, or after-school programs.

(c) A contract, conveyance, or lease shall be executed by the president and confirmed by the secretary of the school district board of directors after the contract, conveyance, or lease is authorized by a written

resolution approved by a majority vote of the school district board of directors.

(d)(1) If the school district donates real property to an entity under this section, the school district shall have the right of first refusal to reacquire the real property if the entity decides to sell or otherwise dispose of the real property.

(2) The school district is not required to compensate the entity for improvements to real property reacquired under this section.

History. Acts 1999, No. 1531, § 1; 2005, No. 2260, § 2; 2013, No. 318, § 3; Acts 2015, No. 394, § 1.

A.C.R.C. Notes. Acts 2013, No. 318, § 1, provided:

“(a) Lack of use or under-utilization of real property as a result of the consolidation of a school district can cause a signifi-

cant loss of investment to the state and the communities where the real property is located.

“(b) It is in the best interest of the state and the communities where the real property is located to ensure the real property is utilized.”

6-21-109. Rules governing public works projects — Definition.

(a) The Commission for Arkansas Public School Academic Facilities and Transportation, after consulting with the Building Authority Division and any other entities, shall establish rules applicable to public educational entities for all public works projects when the public educational entity uses its own employees or acts as a general contractor.

(b)(1) As used in this section, “public educational entities” means Arkansas public school districts, public charter schools, education service cooperatives, or any publicly supported entity having supervision over public educational entities.

(2) “Public educational entities” does not include institutions of higher education.

History. Acts 2001, No. 1204, § 1; 2007, No. 186, § 1; 2007, No. 617, § 25; 2009, No. 1472, § 1; 2019, No. 910, § 6054.

Amendments. The 2019 amendment deleted “of the Department of Finance and Administration” following “Building Authority Division” in (a).

6-21-110. Rules governing disposition of school property — Definitions.

(a) As used in this section:

(1) “Immediate family member” means an individual’s spouse, children of the individual or spouse, a child’s spouse, parents of the individual or the spouse, brothers and sisters of the individual, anyone living or residing in the same residence or household with the individual or the spouse, and anyone acting or serving as an agent of the individual; and

(2)(A) “Public educational entities” means Arkansas public school districts, public charter schools, education service cooperatives, or

any publicly supported entity having supervision over public educational entities.

(B) “Public educational entities” does not include institutions of higher education.

(b) It is hereby declared against public policy and prohibited for any public educational entity to give, donate, or transfer without adequate market value consideration any public property to administrators, board members, or employees of the public educational entity, or immediate family members of any of these individuals.

(c) Public educational entities are prohibited from giving public property having a value of over one hundred dollars (\$100) to leaving or retiring board members, administrators, employees, or members of their immediate family.

(d) Unless specifically mandated by law or court order, public educational entities are prohibited from retroactively raising the salary, granting stipends, or providing other compensation for an administrator beyond the current fiscal year.

(e) The State Board of Education shall establish rules consistent with the provisions of this section regarding the disposition of public property by public educational entities.

History. Acts 2001, No. 1224, § 1; deleted “and regulations” following “rules” 2007, No. 617, § 26; 2019, No. 315, § 301. in (e).

Amendments. The 2019 amendment

6-21-111. Appropriate computer usage for minors — Definitions.

(a) As used in this section:

(1) “Harmful to minors” means that quality of any description, exhibition, presentation, or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when the material or performance, taken as a whole, has the following characteristics:

(A) The average person eighteen (18) years of age or older applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest in sex to minors;

(B) The average person eighteen (18) years of age or older applying contemporary community standards would find that the material or performance depicts or describes nudity, sexual conduct, sexual excitement, or sadomasochistic abuse in a manner that is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and

(C) The material or performance lacks serious literary, scientific, medical, artistic, or political value for minors; and

(2) “Public access computer” means a computer that:

(A) Is located in a public school;

(B) Is frequently or regularly used directly by a minor; and

(C) Is connected to any computer communication system.

(b) A public school that provides a public access computer shall equip the computer with technology that seeks to prevent minors from gaining access to material that is harmful to minors or obtain internet connectivity from an internet service provider that provides filter services to limit access to material that is harmful to minors. Standards and rules for the enforcement of this subsection shall be prescribed by the State Board of Education.

(c) A school district board of directors by a majority vote and after an opportunity for a notice and comment period of at least thirty (30) calendar days may vote to exclude the public schools under its authority from the provisions of subsection (b) of this section.

History. Acts 2001, No. 1533, §§ 1, 2.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of assembly, Education Law, 24 U. Ark. Little Rock L. Rev. 453.

6-21-112. Division of Public School Academic Facilities and Transportation.

(a) In order to ensure that substantially equal access to adequate educational facilities and educational equipment is provided for all public school students in Arkansas, the General Assembly finds that a division of public school academic facilities and transportation should be established under the direct supervision of the Commission for Arkansas Public School Academic Facilities and Transportation.

(b) There is created the Division of Public School Academic Facilities and Transportation, which shall operate under the supervision of the Commission for Arkansas Public School Academic Facilities and Transportation.

(c)(1) The Commission for Arkansas Public School Academic Facilities and Transportation shall select an individual to serve as the Director of the Division of Public School Academic Facilities and Transportation. The director shall serve at the pleasure of the Commission for Arkansas Public School Academic Facilities and Transportation.

(2) The person selected as the director shall:

(A) Be a person of good moral character and qualified technically and by experience to direct the work of the Division of Public School Academic Facilities and Transportation;

(B) Have significant knowledge and experience in construction; and

(C) Have ten (10) years' experience in an administrative, a supervisory, or a management position.

(3) No person who is related within the fourth degree of consanguinity or affinity to any member of the Commission for Arkansas Public School Academic Facilities and Transportation shall be eligible to serve as the director.

(d) The director, with guidance and approval from the Commission for Arkansas Public School Academic Facilities and Transportation, shall be responsible for hiring all employees of the Division of Public School Academic Facilities and Transportation.

(e)(1) The Secretary of the Department of Transformation and Shared Services shall assign one (1) individual to serve as a technology liaison to the Division of Public School Academic Facilities and Transportation.

(2) The secretary shall assign one (1) individual from the staff of the Building Authority Division to serve as a physical plant liaison to the Division of Public School Academic Facilities and Transportation.

(f) The Division of Public School Academic Facilities and Transportation shall:

(1) Provide information or assistance to the Academic Facilities Oversight Committee as requested;

(2) Use recommendations or assessments of the Academic Facilities Oversight Committee or the General Assembly as a basis for establishing the policies and procedures of the Division of Public School Academic Facilities and Transportation;

(3) Develop and implement the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.;

(4) Administer the various programs of state financial participation in support of local academic facilities;

(5)(A) Develop and implement an ongoing uniform process for collecting, inventorying, and updating information on the condition of all public school academic facilities in the state.

(B) If the process developed is an automated statewide system, it shall encompass all school districts;

(6) Develop and implement an ongoing process for collecting records from state agencies of all lawfully required inspections of public school academic facilities conducted by state agencies and commissions;

(7) Develop a facility cost index that provides a methodology for comparing the cost of repairing the condition of a public school academic facility to the cost of replacing the public school academic facility with a facility containing the same amount of square footage;

(8) Conduct unannounced random on-site inspections of public school academic facilities;

(9) Enforce through planning minimum standards for accessibility to public school academic facilities and programs for individuals with disabilities;

(10) Develop guidelines for competitive bidding, competitive negotiation, and other methods of procurement for public school academic facilities projects;

(11) Develop incentive programs to reward school districts for innovative, effective, and efficient use of local and state resources with regard to public school academic facilities;

(12) Review applicable statutes and rules for conflicts with or omission of energy-related content;

(13) Administer the school transportation program in the various school districts of Arkansas, including without limitation:

(A) The training of school bus drivers; and

(B) The inspection of school buses, as defined in § 6-19-110;

(14) Keep records showing the location of the academic facilities in the state by school district;

(15)(A) Report by October 1 of each year to the Governor, the House Committee on Education, the Senate Committee on Education, and the Academic Facilities Oversight Committee on the status of implementation of the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.

(B) The report also shall include summary results of lawfully required inspections of public school academic facilities by state agencies and commissions;

(16) Report by October 1 of each even-numbered year to the Governor, the House Committee on Education, the Senate Committee on Education, and the Academic Facilities Oversight Committee on the state academic facilities master plan;

(17) Maintain a public access website dedicated to public school academic facilities; and

(18) Develop and implement a statewide facilities needs priority list that provides a methodology for:

(A) Prioritization of state school district facility needs; and

(B) Comparing the school district advancement of improving facility conditions with school district master plans.

(g) The Division of Public School Academic Facilities and Transportation may:

(1) Contract with, retain the services of, or designate and fix the compensation of consultants, advisors, architects, engineers, and other independent contractors as may be necessary or desirable to carry out the Arkansas Public School Academic Facilities Program or any related program over which the Division of Public School Academic Facilities and Transportation has authority;

(2)(A) Accept all donations, grants of money, equipment, supplies, materials, and services conditional or otherwise from private sources, from municipal and county governments, from the state, and from the United States Government.

(B) The Division of Public School Academic Facilities and Transportation may use any of its resources to further the Division of Public School Academic Facilities and Transportation's purposes and functions; and

(3) Make and enter into all contracts, commitments, and agreements and execute all instruments necessary or incidental to the performance of its duties and powers under this section, the Arkansas Public School Academic Facilities Program, or any other related program over which the Division of Public School Academic Facilities and Transportation has authority.

(h) The Division of Elementary and Secondary Education shall coordinate and share certain administrative, custodial, legal, internal

finance, and other necessary personnel and responsibilities to effectuate the daily operations of the Division of Public School Academic Facilities and Transportation and the Division of Information Systems.

History. Acts 2003 (2nd Ex. Sess.), No. 90, § 2; 2005, No. 1327, § 1; 2007, No. 751, § 2; 2007, No. 989, § 16; 2007, No. 1580, § 1; 2009, No. 1473, § 14; 2009, No. 1475, § 1; 2015, No. 722, § 1; 2015 (1st Ex. Sess.), No. 7, § 2; 2015 (1st Ex. Sess.), No. 8, § 2; 2019, No. 757, § 51; 2019, No. 910, §§ 1720, 1721.

Publisher's Notes. Acts 2015 (1st Ex. Sess.), Nos. 7 and 8, § 2 specifically amended this section as amended by Acts 2015, No. 722.

Amendments. The 2019 amendment by No. 757, in (f)(14), deleted "a description of each school district in the state, a map showing the school districts with current and accurate boundaries" follow-

ing "showing", inserted "in the state by school district", and deleted "and the electoral zones, if any, into which each school district has been divided" at the end.

The 2019 amendment by No. 910 substituted "Secretary of the Department of Transformation and Shared Services" for "Director of the Department of Information Systems" in (e)(1) and (e)(2); deleted "of the Department of Finance and Administration" following "Building Authority Division" in (e)(2); and, in (h), substituted "Division of Elementary and Secondary Education" for "Department of Education" and substituted "Division of Information Systems" for "Department of Information Systems".

6-21-113. Advisory Committee on Public School Academic Facilities.

(a) To assist the Division of Public School Academic Facilities and Transportation, there is established the Advisory Committee on Public School Academic Facilities to be composed of the following members who must be willing to devote adequate time to the work of the committee and who reflect the demographics of the state:

(1) The Director of the Division of Public School Academic Facilities and Transportation or the director's designee, who shall also serve as secretary to the committee;

(2) One (1) person who is a licensed building contractor experienced in public school construction selected from a list of no fewer than three (3) names submitted by the Arkansas Chapter of the Associated General Contractors of America;

(3) One (1) person who is a licensed architect experienced in public school design submitted by the Arkansas Chapter, the American Institute of Architects;

(4) One (1) person who is a licensed or registered mechanical engineer experienced in public school mechanical and plumbing systems design selected from a list of no fewer than three (3) names submitted by the Arkansas Society of Professional Engineers;

(5) One (1) person who is a licensed or registered electrical engineer experienced in public school electrical systems design selected from a list of no fewer than three (3) names submitted by the Arkansas Society of Professional Engineers;

(6) One (1) person who is a licensed or registered civil engineer experienced in public school civil engineering design and construction selected from a list of no fewer than three (3) names submitted by the Arkansas Society of Professional Engineers;

(7) Two (2) persons selected by the Commission for Arkansas Public School Academic Facilities and Transportation, one (1) of whom is knowledgeable and holds certification in the field of educational technology applications and strategies;

(8) Two (2) persons selected from a list of six (6) names submitted by the Arkansas Association of Educational Administrators from its membership;

(9) One (1) person selected from a list of three (3) names submitted by the Arkansas Education Association from its membership;

(10) Two (2) persons selected from a list of six (6) names submitted by the Arkansas School Boards Association from its membership;

(11) Two (2) persons selected from a list of six (6) names submitted by the Arkansas Rural Ed Association from its membership;

(12) One (1) person selected from a list of three (3) names submitted by the Arkansas Public School Resource Center, Inc., from its membership; and

(13) Three (3) persons, one (1) from each of the professions of construction, architecture, and education, selected by the commission to serve as ex-officio members of the committee based on prior service on the committee.

(b)(1)(A) All members shall serve four-year terms.

(B) One-half ($\frac{1}{2}$) of the members shall serve a term that is staggered from the remaining members' terms by two (2) years.

(C) All terms shall expire on April 1.

(2) Membership is limited to two (2) terms.

(c) Nonstate employee members of the committee shall serve without compensation but may receive expense reimbursement in accordance with § 25-16-902.

(d) All members of the committee shall be appointed by the commission.

(e) The committee shall meet at least one (1) time every year.

(f) The committee shall study and review the current and long-term viability of the Academic Facilities Partnership Program.

(g) The committee may study and review other programs, laws, and administrative rules pertaining to school facilities, including without limitation the following:

(1) Design and construction standards contained in the Arkansas Public School Academic Facility Manual;

(2) Public school district participation in and compliance with the Academic Facilities Master Plan Program;

(3) The efficacy of establishing, on a ten-year cycle, a statewide public school assessment survey to assess the condition of all elementary and secondary school facilities; and

(4) Public school inspection reports compiled in accordance with § 6-21-813.

History. Acts 2005, No. 1424, § 2; 2013, No. 1422, § 1; 2017, No. 801, §§ 1, 2.

A.C.R.C. Notes. Acts 2017, No. 801, § 5, provided: “Acts 2013, No. 1422, § 2, concerning the appointment of members to the Advisory Committee on Public School Academic Facilities, is repealed.”

Amendments. The 2017 amendment substituted “committee” for “Advisory Committee on Public School Academic Facilities” throughout (a); in (a)(2), substituted “One (1) person who is a licensed building contractor” for “Two (2) persons

who are licensed building contractors” and “three (3)” for “six (6)”; substituted “One (1) person who is a licensed architect” for “Two (2) persons who are licensed architects” in (a)(3); in (a)(7), substituted “Two (2) persons” for “One (1) person” and “one (1) of whom” for “who”; added “from its membership” in (a)(8) and (a)(9); in (a)(10), substituted “Two (2) persons” for “One (1) person”, “six (6)” for “three (3)”, and added “from its membership”; inserted present (a)(11) and (12) and redesignated former (a)(11) as (a)(13); rewrote (a)(13); and added (d) through (g).

6-21-114. Commission for Arkansas Public School Academic Facilities and Transportation — Created.

(a) There is created the Commission for Arkansas Public School Academic Facilities and Transportation, which shall consist of the following:

- (1) The Secretary of the Department of Finance and Administration;
- (2) The Commissioner of Elementary and Secondary Education; and
- (3) The President of the Arkansas Development Finance Authority.

(b)(1) The members of the commission shall meet and organize immediately after March 29, 2005. The Commissioner of Elementary and Secondary Education shall be the chair of the commission.

(2)(A) The commission shall meet upon the call of the chair.

(B)(i) The secretary of the commission shall be an employee of the Division of Public School Academic Facilities and Transportation assigned to the commission by the chair of the commission.

(ii) The secretary of the commission shall give members advance notice of the agenda of each meeting.

(3)(A) Two (2) members of the commission shall constitute a quorum for the purpose of transacting business.

(B) A quorum is required for any action of the commission.

(4) Members of the commission shall serve without compensation but may receive expense reimbursement in accordance with § 25-16-902.

(c) Staff support shall be provided by appropriate personnel of the Department of Finance and Administration, the Division of Elementary and Secondary Education, the Arkansas Development Finance Authority, and the Division of Public School Academic Facilities and Transportation.

(d) The commission shall:

(1) Oversee the operations of the Division of Public School Academic Facilities and Transportation;

(2)(A) Promulgate rules in consultation with the Insurance Commissioner to establish property, boiler and machinery, and extended coverage insurance requirements and guidelines for all buildings, structures, facilities, and business personal property owned by a school district.

(B) The rules promulgated by the commission under subdivision (d)(2)(A) of this section shall:

(i) Attempt to provide the most cost-efficient manner for protecting each school district from loss of or damage to the school district's buildings, structures, facilities, and business personal property;

(ii) Require property, boiler and machinery, and extended coverage insurers to have a minimum A.M. Best rating;

(iii) Establish bidding requirements and procedures, if applicable to any insurance coverage; and

(iv)(a) Be binding upon each school district for any placement or renewal of insurance coverage after June 1, 2007.

(b) The state's financial participation under the Academic Facilities Partnership Program provided by § 6-20-2507 or the Academic Facilities Catastrophic Program provided by § 6-20-2508 may be withheld or reduced by the commission if a school district does not comply with the rules promulgated under subdivision (d)(2)(A) of this section; and

(3) Appoint all members of the Advisory Committee on Public School Academic Facilities.

(e) The commission may:

(1) Perform any act and provide for the performance of any function necessary or desirable to carry out the purposes of the Arkansas Public School Academic Facilities Program and any other related program;

(2)(A) Adopt, amend, and rescind rules as necessary or desirable for the administration of the Arkansas Public School Academic Facilities Program and any other related program.

(B) The commission shall report to the Administrative Rules Subcommittee of the Legislative Council in a manner consistent with § 10-3-309 on the adoption, amendment, rescission, or repeal of any proposed rule related to the administration of the Arkansas Public School Academic Facilities Funding Act, § 6-20-2501 et seq., the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq., or any other related program;

(3) Contract with, retain the services of, or designate and fix the compensation of consultants, advisors, architects, engineers, and other independent contractors as may be necessary or desirable to carry out the Arkansas Public School Academic Facilities Program or any related program; and

(4) Study and promulgate rules concerning:

(A) The propriety and feasibility of requiring that each school district maintain insurance coverage against loss due to:

(i) Earth movement; or

(ii) The operation of a school district's motor vehicles and buses; and

(B) The appropriate amount of insurance coverage under this subdivision (e)(4).

(f) The commission shall report annually on its activities to the President Pro Tempore of the Senate, the Speaker of the House of

Representatives, the Governor, the House Committee on Education, the Senate Committee on Education, the State Board of Education, and the Academic Facilities Oversight Committee.

History. Acts 2005, No. 1327, § 2; 2006 (1st Ex. Sess.), No. 32, § 2; 2006 (1st Ex. Sess.), No. 33, § 2; 2007, No. 625, § 1; 2009, No. 1473, § 15; 2015, No. 722, §§ 2, 3; 2017, No. 801, § 3; 2019, No. 910, §§ 1722-1725.

Amendments. The 2017 amendment added (d)(3).

The 2019 amendment substituted “Secretary of the Department of Finance and Administration” for “Director of the De-

partment of Finance and Administration” in (a)(1); substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (a)(2) and (b)(1); substituted “Division of Elementary and Secondary Education” for “Department of Education” in (c); and substituted “Division of Public School Academic Facilities and Transportation” for “division” in (c) and (d)(1).

6-21-115. Name of division — Operation — Director.

(a) The division established under § 6-21-112 within the Division of Elementary and Secondary Education shall be known as the “Division of Public School Academic Facilities and Transportation”.

(b)(1) The Division of Public School Academic Facilities and Transportation shall operate under the direction, control, and supervision of the Commission for Arkansas Public School Academic Facilities and Transportation.

(2) The Division of Public School Academic Facilities and Transportation shall not operate under the direction, control, and supervision of the State Board of Education.

(c) The Director of the Division of Public School Academic Facilities and Transportation shall be selected by the commission and shall serve at the pleasure of the commission.

History. Acts 2005, No. 1672, § 5; 2006 (1st Ex. Sess.), No. 32, § 3; 2006 (1st Ex. Sess.), No. 33, § 3; 2019, No. 910, § 1726.

Amendments. The 2019 amendment, in (a), inserted “within the Division of Elementary and Secondary Education”

and deleted “of the Department of Education” from the end; and substituted “Division of Public School Academic Facilities and Transportation” for “division” in (b)(1) and (b)(2).

6-21-116. Tornado shelter construction.

(a) All building plans for new public school facilities may include a tornado shelter or a designated reinforced area designed to withstand tornadoes and high-speed winds.

(b)(1) School districts shall be required to generate funds to meet the requirements of subsection (a) of this section.

(2) School districts may apply for grant funds to assist in the construction of a tornado shelter or a designated reinforced area in new public school facilities.

(3) In calculating the amount of state financial participation in a facilities project that includes a tornado shelter or designated reinforced area, the Division of Public School Academic Facilities and

Transportation shall deduct from the project cost the total amount of grant funds received by the school district for the shelter or area.

(c) Facilities constructed under this section will be subject to review under § 6-20-1407.

History. Acts 2007, No. 1584, § 1;
2009, No. 1473, § 16; 2013, No. 420, § 7.

6-21-117. Leased academic facilities.

An academic facility leased by a school district shall:

(1) Not be entitled to facilities program funding under the Arkansas Public School Academic Facilities Funding Act, § 6-20-2501 et seq.;

(2) Conform to the school facility standards defined in the Arkansas School Facility Manual;

(3) Be inspected by the Division of Public School Academic Facilities and Transportation to ensure that the facility complies with required academic facility standards before the execution of a lease or a renewal of an existing lease;

(4) Be eligible for a waiver commensurate with the Arkansas School Facility Manual granted by the Commission for Arkansas Public School Academic Facilities and Transportation; and

(5) Be exempt from the academic facility standards for the duration of the replacement of an academic facility that is lost due to a catastrophic event if the leased academic facility is used solely for the purpose of providing an academic facility.

History. Acts 2009, No. 1473, § 17.

6-21-118. Taxation of public school buildings — Definition.

(a) As used in this section, “public school buildings” includes:

(1) School buildings and apparatus used for school purposes by a public school district or open-enrollment public charter school; and

(2) Libraries and grounds used exclusively for school purposes by a public school district or open-enrollment public charter school.

(b) A public school building is exempt from taxation under Arkansas Constitution, Article 16, § 5, whether the public school building is:

(1) Owned by a public school district or an open-enrollment public charter school;

(2)(A) Leased by a public school district or an open-enrollment public charter school on a lease-purchase agreement.

(B) In order to be exempt from taxation under subdivision (b)(2)(A) of this section, a lessor shall file the lease-purchase agreement with the county recorder.

(C) If the lease-purchase agreement that is required to be filed with the county recorder under subdivision (b)(2)(B) of this section is terminated, the lessor shall pay the last three (3) years of property tax due on the public school building; or

(3)(A) Leased by a public school district or an open-enrollment public charter school on any other lease agreement for an amount below fair market value.

(B) In order to be exempt from taxation under subdivision (b)(3)(A) of this section, a lessor shall present evidence to the county assessor that:

(i) The lease agreement is for an amount below fair market value; and

(ii) The difference between the amount of the lease agreement and fair market value is equal to or greater than the amount that would have been collected in taxes on the public school building if the public school building had not been exempt from taxation under this section.

(C)(i) If the county assessor determines that the lease agreement does not meet the requirements of subdivision (b)(3)(A) of this section, the lessor may appeal the determination to the county court under § 14-14-1105.

(ii) An appeal from a decision of the county court may be made to the circuit court.

(c) The lessor shall notify the county assessor if the public school building no longer meets the requirements under subdivision (b)(2) or subdivision (b)(3) of this section.

History. Acts 2017, No. 943, § 1.

6-21-119. Water bottle filling stations — Definitions.

(a) The General Assembly finds that:

(1) Water plays an important role in maintaining the overall health of children;

(2) Drinking water may positively impact children's cognitive performance in school;

(3) Drinking water may improve children's fine motor skills and visual attention, which helps children with learning activities such as reading;

(4) Drinking water can help people maintain a healthy weight; and

(5) It is important to ensure all newly constructed public schools and existing public school buildings undergoing additions or total renovations incorporate adequate water bottle filling stations in order to increase access to free, easily accessible, safe, and good-tasting drinking water on school property.

(b) Beginning with public school buildings constructed or totally renovated on or after July 1, 2021, the following buildings shall be equipped with water bottle filling stations:

(1) A newly constructed public school building; and

(2) An existing public school building undergoing additions or total renovations.

(c)(1) The Division of Public School Academic Facilities and Transportation shall approve the plans and specifications for a newly constructed public school building or an existing public school building

undergoing additions or total renovations only if the plans and specifications provide for the following:

(A) A minimum of one (1) water bottle filling station per one hundred (100) people;

(B) A minimum of one (1) water bottle filling station on each floor and wing of each school building proposed in the plans and specifications; and

(C) A minimum of one (1) water bottle filling station located in or near gymnasiums, cafeterias, and other high-traffic areas.

(2) A proposed water bottle filling station subject to approval under subdivision (c)(1) of this section may be:

(A) Integrated into drinking fountains; and

(B) Touchless for sanitary reasons.

(d) A water bottle filling station installed in a public school building as required under this section shall:

(1) Dispense clean, cooled, filtered drinking water;

(2) Be regularly cleaned to maintain sanitary conditions;

(3) Be maintained on a regular basis to ensure proper functioning; and

(4) Meet Arkansas Plumbing Code standards, which incorporate NSF International Standard/American National Standard 61 as established by the Safe Drinking Water Act, 42 U.S.C. § 300f, as existing on January 1, 2021.

(e)(1) Public school students and public school employees may bring and carry water bottles to school, including in public school classrooms, that:

(A) Are made of a material that is not easily breakable;

(B) Have a lid to prevent spills; and

(C) Are filled exclusively with water.

(2) A public school may prohibit a public school student or public school employee from bringing a water bottle into:

(A) A library;

(B) A computer lab;

(C) A science lab; or

(D) Any other location in which it may present an issue to have drinking water near other individuals or equipment.

(3) A public school may enact a disciplinary policy regarding the misuse of water bottles by a public school student or a public school employee.

(f) As used in this section:

(1) “Additions” means academic areas or spaces that are constructed as a part of or separate additions to an existing academic area or space in order to improve the state, condition, or efficiency of the academic facility; and

(2) “Total renovation” means the replacement of all building systems that are determined by the division to be in need of replacement in order to bring the facility to a “like new” condition.

History. Acts 2021, No. 775, § 1.

SUBCHAPTER 2 — EQUAL ACCESS ACT

SECTION.
6-21-201. Title.
6-21-202. Definitions.
6-21-203. Construction.
6-21-204. Prohibition of denial of equal
access.

SECTION.
6-21-205. Limited open forum.
6-21-206. Fair opportunity.

6-21-201. Title.

This subchapter may be cited as the “Equal Access Act”.

History. Acts 1985, No. 792, § 1; A.S.A.
1947, § 80-1918.

6-21-202. Definitions.

As used in this subchapter:

- (1) “Meeting” includes those activities of student groups that are permitted under a school’s limited open forum and are not directly related to the school curriculum, including, but not limited to, student-planned graduation ceremonies and student-planned pregame activities at sports events;
- (2) “Noninstructional time” means time set aside by the school before actual classroom instruction begins or after actual classroom instruction ends;
- (3) “School endorsement” means that a school official or employee approves or selects a speaker or approves, selects, or writes any content of the speech. Student-initiated meetings limited to student speech with content-neutral guidelines shall not constitute school endorsement;
- (4) “Secondary school” means a public school that provides secondary education as determined by law; and
- (5) “Sponsorship” includes the act of promoting, leading, or participating in a meeting. The assignment of a teacher, administrator, or other school employee to a meeting for custodial purposes does not constitute sponsorship of the meeting.

History. Acts 1985, No. 792, § 3; A.S.A.
1947, § 80-1920; Acts 1993, No. 988, § 1.

6-21-203. Construction.

- (a) Nothing in this subchapter shall be construed to authorize the State of Arkansas or a political subdivision thereof:
 - (1) To influence the form or content of any prayer or other religious activity;
 - (2) To require any person to participate in prayer or other religious activity;

(3) To expend public funds beyond the incidental cost of providing the space for student-initiated meetings;

(4) To compel any school agent or employee to attend a school meeting if the content of the speech at the meeting is contrary to the beliefs of the agent or employee;

(5) To sanction meetings that are otherwise unlawful;

(6) To limit the rights of groups of students which are not of a specified numerical size; or

(7) To abridge the constitutional rights of any person.

(b) Nothing in this subchapter shall be construed to limit the authority of the school, its agents, or its employees to maintain order and discipline on school premises, to protect the well-being of students and faculty, and to assure that attendance of students at meetings is voluntary.

History. Acts 1985, No. 792, § 2; A.S.A. 1947, § 80-1919.

RESEARCH REFERENCES

Ark. L. Rev. Note, The Establishment Clause and Prayers in Public High School Graduations: Jones v. Clear Creek Independent School District, 47 Ark. L. Rev. 653.

6-21-204. Prohibition of denial of equal access.

(a) It shall be unlawful for any public secondary school that receives state financial assistance and that has a limited open forum to deny equal access or a fair opportunity to, or to discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at the meeting.

(b) Each school district may develop a procedure to notify, in writing, all students and their parents of the provisions of this subchapter and to document the receipt of that notice.

History. Acts 1985, No. 792, § 2; A.S.A. 1947, § 80-1919; Acts 1993, No. 988, § 2.

6-21-205. Limited open forum.

A public secondary school has a limited open forum whenever such school grants an offering to or opportunity for one (1) or more noncurriculum-related student groups to meet on school premises during noninstructional time.

History. Acts 1985, No. 792, § 2; A.S.A. 1947, § 80-1919.

6-21-206. Fair opportunity.

Schools shall be deemed to offer a fair opportunity to students who wish to conduct a meeting within its limited open forum if such school uniformly provides that:

- (1) The meeting is voluntary and student-initiated;
- (2) There is no sponsorship of the meeting by the school, the government, or its agents or its employees;
- (3) Employees or agents of the school or government are present at religious meetings only in a nonparticipatory capacity;
- (4) The meeting does not materially and substantially interfere with the orderly conduct of educational activities within the school; and
- (5) Non-school persons may not direct, conduct, control, or regularly attend activities of student groups.

History. Acts 1985, No. 792, § 2; A.S.A. 1947, § 80-1919.

SUBCHAPTER 3 — ACQUISITION OF COMMODITIES GENERALLY

- SECTION.
- 6-21-301. Definitions.
 - 6-21-302. Penalty.
 - 6-21-303. Rules.
 - 6-21-304. Manner of making purchases — Definitions.

- SECTION.
- 6-21-305. Exemptions from bidding requirements.
 - 6-21-306. Used school bus — Defined — Purchase.
 - 6-21-307. Motor vehicles.

Effective Dates. Acts 1997, No. 1344, § 7: became law without the Governor’s signature. Noted Apr. 11, 1997. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the present law regarding the purchase of used school buses is too time consuming and costly for our public school districts; that this act will provide our public school districts with an efficient and timely method for purchasing used school buses; and that this act should go into effect immediately to give our school districts the maximum flexibility in the acquisition of new school buses. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it

shall become effective on the date the last house overrides the veto.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-21-301. Definitions.

As used in this subchapter:

(1) "Commodities" means all supplies, goods, material, equipment, machinery, facilities, personal property, and services, other than personal and professional services, purchased for or on behalf of the school district;

(2) "Open market purchases" means those purchases of commodities by any purchasing official in which competitive bidding is not required;

(3) "Purchase" means and includes not only the outright purchase of a commodity but also the acquisition of commodities under rental-purchase agreements, lease-purchase agreements, or any other type of agreements whereby the school district has an option to buy the commodity and to apply the rental payments on the purchase price thereof;

(4) "Purchase price" means the full sale or bid price of any commodity without any allowance for trade-in; and

(5) "Purchasing official" means the board of directors of any school district or a lawfully designated agent of the school district with authority to contract or make purchases on behalf of the school district.

History. Acts 1983, No. 639, § 1; A.S.A. 1947, § 80-551; Acts 1993, No. 896, § 1; 1997, No. 820, § 1.

6-21-302. Penalty.

A violation of the provisions of this subchapter shall be a Class C misdemeanor.

History. Acts 1983, No. 639, § 5; A.S.A. 1947, § 80-555.

6-21-303. Rules.

(a) The board of directors of each school district shall prescribe the method of soliciting bids and may adopt other rules governing the procurement of commodities.

(b)(1)(A) Each school district, according to its established reimbursement policy, shall provide to each prekindergarten through sixth grade (preK-6) teacher in each fiscal year for use by that teacher in his or her classroom or for class activities the greater of:

(i) Twenty dollars (\$20.00) per student enrolled in the teacher's class for more than fifty percent (50%) of the school day at the end of the first three (3) months of the school year; or

(ii) Five hundred dollars (\$500) for the teacher to apply toward the purchase of related commodities.

(B) The teacher shall provide to the school district a receipt documenting any purchase.

(2) The board of directors of each school district shall adopt reasonable procedures for teachers to draw from or be reimbursed from the discretionary fund pursuant to this subsection.

(c) The Division of Elementary and Secondary Education may grant a waiver of the requirements of subsection (b) of this section if a school district requests a waiver and the school district is in fiscal distress.

History. Acts 1983, No. 639, § 4; A.S.A. 1947, § 80-554; Acts 2001, No. 1687, § 1; 2003, No. 756, § 1; 2005, No. 1192, § 1; 2007, No. 1573, § 61; 2019, No. 910, § 1727.

Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” in (c).

6-21-304. Manner of making purchases — Definitions.

(a)(1)(A) All purchases of commodities by any school district, except those specifically exempted by § 6-21-305, shall be made as follows:

(i)(a) In each instance in which the estimated purchase price shall equal or exceed twenty thousand dollars (\$20,000), the commodity shall be procured by soliciting bids, provided that the purchasing official may reject all bids and may purchase the commodity by negotiating a contract.

(b) If the purchasing official, after rejecting all bids, determines that the purchase should be made by negotiation, then each responsible bidder who submitted a bid shall be notified of the determination and shall be given a reasonable opportunity to negotiate;

(ii) Open market purchases may be made when the purchase price is less than twenty thousand dollars (\$20,000); and

(iii) No purchasing official shall parcel or split any item or items with the intent or purpose to enable the purchase to be made under a less restrictive procedure.

(B)(i) Annually on July 1, the Commissioner of Elementary and Secondary Education shall adjust the purchase price amounts under subdivision (a)(1)(A) of this section by the percentage change in the Consumer Price Index for All Urban Consumers or its successor.

(ii) When calculating the adjustment under subdivision (a)(1)(B)(i) of this section, the commissioner may round the final amount up to the nearest one hundred dollars (\$100).

(2)(A) In soliciting bids for the purchase of a commodity, a school district or a person or organization acting on behalf of a school district shall not impose qualifications or specifications that unreasonably restrict competition for the purchase of a commodity.

(B)(i) As used in this subdivision (a)(2), “specifications” means a technical description or other description of the physical or functional characteristics of a commodity.

(ii) Specifications shall not include the name or identity of any specific vendor.

(3)(A) A school district shall notify in writing all actual or prospective bidders, offerors, or contractors who make a written request to the school district for notification of opportunities to bid.

(B) Notice under subdivision (a)(3)(A) of this section shall be provided in sufficient time to allow actual or prospective bidders, offerors, or contractors to submit a bid or otherwise appropriate response.

(4)(A) Any competitive bid submitted to a school district in response to a solicitation for bids for the purchase of a commodity shall be accompanied by a form substantially similar to the following that is signed and notarized by the agent of the bidder:

“[NAME OF SCHOOL DISTRICT]

[NAME OF COUNTY]

I, _____, hereby state:

(1) I am the duly authorized agent of _____, the bidder submitting the competitive bid which is attached to this statement, for the purpose of certifying the facts pertaining to the existence of collusion among and between bidders and state officials, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the awarding of any contract pursuant to the bid to which this statement is attached.

(2) I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the proceedings leading to the submission of the bid.

(3) Neither the bidder nor anyone subject to the bidder’s direction or control has been a party:

(A) To any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding;

(B) To any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of the prospective contract; or

(C) In any discussions between bidders and any state official concerning exchange of money or other thing of value for special consideration in the awarding of a contract.

(4) I hereby guarantee that the specifications outlined in the bid shall be followed as specified and that deviations from the specifications shall occur only as part of a formal change process approved by the board of directors of the school district.

Signature

Subscribed and sworn to before me this ____ day of ____, 20____.

Notary Public”.

(B) Any person determined to have made a false statement on the form prescribed by subdivision (a)(4)(A) of this section or any bidder who acts contrary to the provisions of the form after its agent has executed the form shall be guilty of a Class C misdemeanor.

(5)(A) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a school district contract may protest to the superintendent of the school district in accordance with procedures established by the board of directors of the school district.

(B) Protest procedures shall include, at a minimum, provisions addressing the following:

(i) The superintendent's authority to settle and resolve a protest of an aggrieved person concerning the solicitation or award of a contract;

(ii) Submission of a protest in writing within seven (7) calendar days after the aggrieved person knows or should have known of the facts giving rise to the protest;

(iii) The provision of reasonable notice to all persons involved and reasonable opportunity for those persons to respond to the protest issues;

(iv) The issuance of a prompt decision in writing that states the reasons for the action taken which is provided to all interested parties;

(v) The impact of a protest on continuing with the solicitation or award of the school district contract pending the resolution of the protest; and

(vi) The award of costs with regard to successful protests.

(C) A decision on a protest under this section shall be final and conclusive.

(b)(1) The local school district board of directors shall have exclusive jurisdiction for the purchase of Types A, B, C, and D school buses.

(2) The Commission for Arkansas Public School Academic Facilities and Transportation shall have responsibility for drawing up the minimum specifications for all school buses.

(3) An advisory committee made up of ten (10) school administrators representing all sizes of schools and all areas of the state shall assist the commission in drawing up specifications for school buses.

(4)(A) A local school district board of directors may request the State Procurement Director to solicit bids for school buses on its behalf.

(B) If a request is made, the Office of State Procurement shall take bids from all school bus body and chassis manufacturers doing business in Arkansas.

(5) If a local school district board of directors chooses to purchase school buses other than through the office, the board of directors shall forward no later than twenty (20) days after the bid award the following documents to the office:

(A) A copy of all the bid specifications;

(B) A list of invited bidders;

(C) Copies of all correspondence sent out by the school district to bidders and all correspondence received by the school district from bidders;

(D) A complete bid tabulation; and

(E) A copy of the bid award.

(c) For the purposes of this section:

(1) A "Type A school bus" is a conversion or body constructed upon a van-type compact truck or a front-section vehicle with a gross weight rating of ten thousand pounds (10,000 lbs.) or less and designed for carrying more than ten (10) persons;

(2) A "Type B school bus" is a conversion or body constructed and installed upon a van or front-section vehicle chassis or stripped chassis with a vehicle weight rating of more than ten thousand pounds (10,000 lbs.) and designed for carrying more than ten (10) persons. Part of the engine is beneath or behind the windshield and beside the driver's seat. The entrance door is behind the front wheels;

(3) A "Type C school bus" is a body installed upon a flat back cowl chassis with a gross vehicle weight rating of more than ten thousand pounds (10,000 lbs.) and designed for carrying more than ten (10) persons. All of the engine is in front of the windshield. The entrance door is behind the front wheels; and

(4) A "Type D school bus" is a body installed upon a chassis with the engine mounted in the front, midship, or rear with a gross vehicle weight rating of more than ten thousand pounds (10,000 lbs.) and designed for carrying more than ten (10) persons. The engine may be behind the windshield and beside the driver's seat, at the rear of the bus, behind the rear wheels, or midship between the front and rear axles. The entrance door is ahead of the front wheels.

History. Acts 1983, No. 639, § 2; A.S.A. 1947, § 80-552; Acts 1987, No. 65, § 1; 1993, No. 896, § 2; 1997, No. 327, § 1; 1997, No. 820, § 2; 2005, No. 2161, § 1; 2009, No. 1473, § 18; 2013, No. 1138, § 56; 2017, No. 1124, § 1; 2019, No. 910, § 1728; 2021, No. 262, § 1.

A.C.R.C. Notes. This section may be affected by § 6-21-306.

Amendments. The 2017 amendment redesignated former (a)(1) as (a)(1)(A);

substituted "twenty thousand dollars (\$20,000)" for "ten thousand dollars (\$10,000)" in present (a)(1)(A)(i)(a) and (a)(1)(A)(ii); and added (a)(1)(B).

The 2019 amendment substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (a)(1)(B).

The 2021 amendment added (a)(1)(B)(ii); and redesignated former (a)(1)(B) as (a)(1)(B)(i).

CASE NOTES

Passenger Seat Belts.

Exercising authority under Ark. Const. art. XIV, § 4, the General Assembly authorized the Department of Education to adopt regulations regarding school bus design pursuant to §§ 6-19-111(a)-(b), 6-21-304; the department's specifications, which did not mandate passenger seat belts, were required in every school bus contract in the state pursuant to § 6-19-102(e), assuring manufacturers' compliance. Legislative history touching on the issue revealed that the General Assembly considered but rejected mandatory pas-

senger seat belts in school buses several times; consequently, tort claims, which were based on a school bus manufacturer's failure to provide passenger seat belts, were preempted because the manufacturer complied with state specifications governing school bus design, and the applicable statutory and regulatory framework, while silent on the issue, indicated that the General Assembly had affirmatively decided not to require passenger seat belts in school buses. *Price v. Thomas Built Buses*, 370 Ark. 405, 260 S.W.3d 300 (2007) (see now §§ 6-19-117, 6-19-130).

6-21-305. Exemptions from bidding requirements.

(a) The following commodities may be purchased without soliciting bids:

(1)(A) Commodities in instances of an unforeseen and unavoidable emergency.

(B) Provided, no emergency purchase shall be approved by the superintendent unless a statement in writing shall be attached to the purchase order describing the emergency necessitating the purchase of the commodity without competitive bidding;

(2) Commodities available only from the United States Government;

(3) Utility services, the rates for which are subject to regulation by a state agency or a federal regulatory agency;

(4) With the exception of used school buses, used equipment and machinery; and

(5) Commodities available only from a single source.

(b) However, the purchasing official must determine in writing that it is not practicable to use other than the required or designated commodity or service, and a copy of this statement shall be attached to the purchase order.

History. Acts 1983, No. 639, § 3; 1985, No. 1030, § 1; A.S.A. 1947, § 80-553; Acts 1993, No. 896, § 3; 1997, No. 820, § 3.

6-21-306. Used school bus — Defined — Purchase.

(a)(1) For the purposes of this section, a school bus becomes a used school bus two (2) years after the date of issuance of the manufacturer's certificate of origin.

(2) If the body of the school bus is installed by an entity other than the manufacturer of the chassis, the school bus becomes a used school bus two (2) years after the date of issuance of the manufacturer's certificate of origin issued by the entity that installed the body on the chassis.

(b) Notwithstanding any other law to the contrary, used school buses purchased by public school districts in this state shall not be subject to the jurisdiction of the State Procurement Director nor any competitive bidding procedures prescribed by law.

History. Acts 1997, No. 1344, §§ 1, 2.

A.C.R.C. Notes. Former § 6-21-307 is now codified as § 6-21-306(b).

6-21-307. Motor vehicles.

A school district may purchase a new motor vehicle from a motor vehicle dealer licensed under the Arkansas Motor Vehicle Commission Act, § 23-112-101 et seq., if the purchase price of the motor vehicle does not exceed the fleet price awarded by the Office of State Procurement

and in effect at the time the school district submits the purchase order for the same make and model motor vehicle.

History. Acts 2017, No. 442, § 1.

SUBCHAPTER 4 — FREE TEXTBOOK ACT OF 1975

SECTION.

- 6-21-401. Title.
- 6-21-402. Definition.
- 6-21-403. Requirements generally —
Definition.
- 6-21-404. Duties of the State Board of
Education generally.
- 6-21-405. [Repealed.]
- 6-21-406. School textbook depositories.
- 6-21-407, 6-21-408. [Repealed.]
- 6-21-409. Assessment of damages for
publisher's failure to com-
ply.

SECTION.

- 6-21-410. Illegal acts involving school of-
ficials.
- 6-21-411. [Repealed.]
- 6-21-412. [Repealed.]
- 6-21-413. Instructional materials selec-
tion committee.
- 6-21-414 — 6-21-423. [Repealed.]

Effective Dates. Acts 1975, No. 302, § 20: approved Mar. 3, 1975. Emergency clause provided: "The General Assembly finds that the provisions of this Act are necessary to the timely and orderly selection, purchase, and distribution of textbooks and other instructional materials to be used in the public schools of the State in the school year 1975-76; therefore, an emergency is hereby declared to exist, and this Act, being necessary for the preservation of the public peace, health and safety shall be in effect from and after its passage."

Acts 1999, No. 1078, § 92: July 1, 2000.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state

entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-21-401. Title.

This subchapter shall be known as the "Free Textbook Act of 1975".

History. Acts 1975, No. 302, § 1; A.S.A. 1947, § 80-1701.

6-21-402. Definition.

As used in this subchapter, “instructional materials” means:

- (1) Traditional books, textbooks, and trade books in printed and bound form;
- (2) Activity-oriented programs that may include:
 - (A) Manipulatives;
 - (B) Hand-held calculators; or
 - (C) Other hands-on material; and
- (3) Technology-based materials that require the use of electronic equipment in order to be used in the learning process.

History. Acts 1975, No. 302, § 2; A.S.A. 1947, § 80-1702; Acts 1995, No. 280, § 1; 1995, No. 605, § 1; 2013, No. 511, § 1.

6-21-403. Requirements generally — Definition.

(a) Public school districts shall provide instructional materials, including the availability of any equipment needed to access the instructional materials, for all pupils attending the public schools of this state in kindergarten through grade twelve (K-12), inclusive, in all subjects taught in those grades, without cost to the pupils.

(b) School districts may select their own instructional materials, including the equipment needed to access the instructional materials.

(c) Materials purchased with state funds shall be consistent with the Arkansas Academic Content Standards and educational goals established by the State Board of Education.

(d)(1)(A) The Division of Elementary and Secondary Education shall monitor to ensure that all school districts in Arkansas comply with this section.

(B) The division shall report in the annual school performance report a school district that fails to provide instructional materials, including the availability of any equipment needed to access the instructional materials.

(2) The state board, through the division, may promulgate rules as may be necessary to carry out this subchapter.

(e)(1) As used in this subsection, “person” means an individual, a partnership, a corporation, a company, or an association.

(2) A person who operates in this state shall not charge a school district a price for instructional materials that exceeds the lowest contracted price currently bid in another state on the same product.

(3) A person shall sell instructional materials at the same price to all school districts in the state and must guarantee the price for the remainder of the school year.

History. Acts 1975, No. 302, §§ 2, 3; A.S.A. 1947, §§ 80-1702, 80-1703; Acts 1995, No. 280, § 2; 1995, No. 605, § 2;

2007, No. 1199, § 1; 2007, No. 1577, § 1; 2011, No. 288, § 1; 2013, No. 511, § 2; 2019, No. 757, §§ 52, 53; 2019, No. 910, § 1729.

Amendments. The 2019 amendment by No. 757 substituted “Materials” for “Any materials” and “Arkansas Academic

Content Standards" for "curriculum" in (c); and deleted "and shall report to the members of the House Committee on Education and Senate Committee on Education annually any school district out of compliance by November 1 of each year" following "subchapter" in (d)(2).

The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" in (d)(1)(A); and substituted "division" for "department" in (d)(1)(B) and (d)(2).

6-21-404. Duties of the State Board of Education generally.

(a) The State Board of Education may:

(1) Make rules to implement this subchapter;

(2) Require reports from school districts on the use and distribution of these items; and

(3) Do whatever else may be necessary for the general welfare of the public school instructional materials system in order to acquire the items at the lowest possible cost.

(b) The powers enumerated in this section are cumulative and not restrictive.

History. Acts 1975, No. 302, § 17; A.S.A. 1947, § 80-1717; Acts 1995, No. 280, § 3; 1995, No. 605, § 3; 1997, No. 333, § 1; 2013, No. 511, § 3; 2019, No. 315, § 302.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (a)(1).

6-21-405. [Repealed.]

Publisher's Notes. This section, concerning the determination of recommended instructional materials, was repealed by Acts 2013, No. 511, § 4. The

section was derived from Acts 1975, No. 302, § 4; 1983, No. 426, § 1; A.S.A. 1947, § 80-1704; Acts 1995, No. 280, § 4; 1995, No. 605, § 4; 1997, No. 333, § 2.

6-21-406. School textbook depositories.

All publishers doing business in Arkansas shall maintain one (1) or more book depositories at the publisher's expense in this state.

History. Acts 1975, No. 302, § 5; 1983, No. 426, § 2; A.S.A. 1947, § 80-1705; Acts 1995, No. 280, § 5; 1995, No. 605, § 5; 1999, No. 1323, § 21; 2013, No. 511, § 5; 2017, No. 929, § 7.

Amendments. The 2017 amendment deleted (a); and deleted the (b) designation.

CASE NOTES

Cited: Harris v. Ark. Book Co., 794 F.2d 358 (8th Cir. 1986).

6-21-407, 6-21-408. [Repealed.]

Publisher's Notes. These sections, concerning contracts with publishers and exchange regulations, were repealed by

Acts 2013, No. 511, §§ 6, 7. The sections were derived from the following sources:
6-21-407. Acts 1975, No. 302, § 15;

A.S.A. 1947, § 80-1715; Acts 1995, No. 280, § 6; 1995, No. 605, § 6. A.S.A. 1947, § 80-1706; Acts 1995, No. 280, § 7; 1995, No. 605, § 7.
6-21-408. Acts 1975, No. 302, § 6;

6-21-409. Assessment of damages for publisher's failure to comply.

(a) The State Board of Education is authorized to assess any publisher any amount of damages to the State of Arkansas for failure to comply with the terms of this subchapter or any published rule of the state board, provided that the publisher has been given a hearing before the state board regarding the assessment of damages.

(b) If a publisher fails to reimburse the state within six (6) months after notice of assessment has been served on the publisher, the state board may prohibit the publisher from selling instructional materials in Arkansas for a maximum period of five (5) years from the date that damages are assessed under this section.

History. Acts 1975, No. 302, §§ 7, 8; 1983, No. 426, § 3; A.S.A. 1947, §§ 80-1707, 80-1708; Acts 1989, No. 847, § 1; 1995, No. 280, § 8; 1995, No. 605, § 8; 2013, No. 511, § 8; 2019, No. 315, § 303. **Amendments.** The 2019 amendment substituted "rule" for "regulation" in (a).

6-21-410. Illegal acts involving school officials.

(a)(1) It shall be illegal for the Commissioner of Elementary and Secondary Education or any other employee connected with the Division of Elementary and Secondary Education, any member of any selecting committee, or any member of any school district board of directors to accept or receive any money, gift, property, or favor whatsoever from any person, firm, or corporation, or any agent thereof offering for sale any item pursuant to this subchapter or from any person in any way interested in such sale.

(2) Any person who pleads guilty or nolo contendere to or is found guilty of violating this subsection shall be guilty of a Class B misdemeanor.

(3) Any fines collected under this subsection shall be deposited into the State Treasury to the credit of the Public School Fund.

(b)(1)(A) It shall be illegal for any teacher in the public schools of Arkansas or any person connected with the public school system of Arkansas in any capacity to have any interest in the profits, proceeds, or sale of any instructional materials used in the schools of Arkansas under his or her charge or with which he or she is connected in any official capacity.

(B) However, this subdivision (b)(1) shall not apply nor have any reference to royalties or fees received by a person from the sale of instructional materials of which he or she is the author.

(2) Any person who pleads guilty or nolo contendere to or is found guilty of violating this subsection shall be guilty of a violation and

subject to a fine of no less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200).

(3) Any fines collected under this subsection shall be deposited into the State Treasury to the credit of the fund.

(c)(1) It shall be illegal for any person directly or indirectly to promise or offer to give or cause to be promised, offered, or given any money, good, bribe, present, reward, or any valuable thing whatsoever to the commissioner, his or her assistants, or any other employee of the Division of Elementary and Secondary Education, the Director of the Division of Career and Technical Education, his or her assistants or any other employee of the Division of Career and Technical Education, any school district board members, teachers, or other persons with the intent of influencing their decisions on any questions, matters, causes, or proceedings in the selection of instructional materials.

(2) Any person who pleads guilty or nolo contendere to or is found guilty of violating this subsection shall be guilty of a Class B misdemeanor.

(3) Any fines collected under this subsection shall be deposited into the State Treasury to the credit of the fund.

History. Acts 1975, No. 302, § 9; 1977, No. 645, § 1; A.S.A. 1947, § 80-1709; Acts 1995, No. 280, § 9; 1995, No. 605, § 9; 1999, No. 1078, § 82; 1999, No. 1323, § 22; 2005, No. 1994, § 386; 2013, No. 511, §§ 9, 10; 2019, No. 910, §§ 1730, 1731.

Amendments. The 2019 amendment, in (a)(1), substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" and substi-

tuted "Division of Elementary and Secondary Education" for "Department of Education"; and, in (c)(1), substituted "Division of Elementary and Secondary Education, the Director of the Division of Career and Technical Education" for "Department of Education, the Director of the Department of Career Education", and substituted "Division of Career and Technical Education" for "Department of Career Education".

6-21-411. [Repealed.]

Publisher's Notes. This section, concerning tax exemptions for items purchased by the state for free distribution to public schools, was repealed by Acts 2003

(2nd Ex. Sess.), No. 32, § 2. The section was derived from Acts 1975, No. 302, § 11; A.S.A. 1947, § 80-1711; Acts 1995, No. 280, § 10; 1995, No. 605, § 10.

6-21-412. [Repealed.]

Publisher's Notes. This section, concerning the distributions of textbooks, materials, or funds, was repealed by Acts 2013, No. 511, § 11. The section was de-

rived from Acts 1975, No. 302, § 10; A.S.A. 1947, § 80-1710; Acts 1995, No. 280, § 11; 1995, No. 605, § 11.

6-21-413. Instructional materials selection committee.

(a) Each school district shall select an instructional materials selection committee.

(b) A majority of its members shall be licensed personnel, which shall include classroom teachers.

History. Acts 1975, No. 302, § 11; 280, § 12; 1995, No. 605, § 12; 2013, No. A.S.A. 1947, § 80-1711; Acts 1995, No. 511, § 12; 2013, No. 1138, § 57.

6-21-414 — 6-21-423. [Repealed.]

Publisher’s Notes. These sections, concerning district choice as to hardcover texts, etc.; contracts with publishers; prohibition of changes prior to contract expiration; exchange regulations; assessment of damages for publisher’s failure to comply; illegal acts involving school officials, etc.; tax exemption; expenses; distribution of textbooks, materials, or funds; and reports on adoption, distribution, and use of textbooks, were repealed by identical Acts 1995, Nos. 280 and 605, § 13. The sections were derived from the following sources:

- 6-21-414. Acts 1975, No. 302, § 13; A.S.A. 1947, § 80-1713.
- 6-21-415. Acts 1975, No. 302, § 9; 1977,

- No. 645, § 1; A.S.A. 1947, § 80-1709; Acts 1989 (3rd Ex. Sess.), No. 62, § 1.
- 6-21-416. Acts 1975, No. 302, § 11; A.S.A. 1947, § 80-1711.
- 6-21-417. Acts 1975, No. 302, § 14; A.S.A. 1947, § 80-1714.
- 6-21-418. Acts 1975, No. 302, § 15; A.S.A. 1947, § 80-1715.
- 6-21-419. Acts 1975, No. 302, § 15; A.S.A. 1947, § 80-1715.
- 6-21-420. Acts 1975, No. 302, § 15; A.S.A. 1947, § 80-1715.
- 6-21-421. Acts 1975, No. 302, § 16; A.S.A. 1947, § 80-1716.
- 6-21-422. Acts 1975, No. 302, § 13; A.S.A. 1947, § 80-1713.
- 6-21-423. Acts 1975, No. 302, § 12; A.S.A. 1947, § 80-1712.

SUBCHAPTER 5 — PUBLIC RECREATION AND PLAYGROUNDS

- SECTION.
- 6-21-501. Authority to operate.
 - 6-21-502. Operation or cooperation — No state aid.
 - 6-21-503. Property used for activities — Acceptance of gifts and bequests.

- SECTION.
- 6-21-504. [Repealed.]
 - 6-21-505. Primary use of school facilities.

Publisher’s Notes. Acts 1941, No. 291, §§ 1-5, are also codified as §§ 14-16-201 — 14-16-208, 14-54-1301 — 14-54-1308.

Cross References. Local government reserve funds, § 14-73-101 et seq.
Playgrounds and recreational facilities, § 14-16-201 et seq.

Effective Dates. Acts 1941, No. 291,

§ 6: approved Mar. 26, 1941. Emergency clause provided: “This act being necessary for the promotion of an adequate National Defense and an able-bodied citizenry, an emergency is declared to exist and the same shall take effect and be in force from and after its passage.”

6-21-501. Authority to operate.

- (a) Any school district or any board of directors thereof may:
 - (1) Operate a program of public recreation and playgrounds;
 - (2) Acquire, equip, and maintain land, buildings, or other recreational facilities; and
 - (3) Expend funds for the operation of the program pursuant to the provisions of this subchapter.

(b) However, the provisions of this subchapter shall not apply to § 17-22-201 et seq.

History. Acts 1941, No. 291, § 1; A.S.A. 1947, § 19-3601.

CASE NOTES

Cited: Kendall v. Henderson, 238 Ark. 832, 384 S.W.2d 954, 384 S.W.2d 955 (1964).

6-21-502. Operation or cooperation — No state aid.

(a) Any school district or any board of directors thereof may:

(1) Operate such a program independently or cooperate in its conduct with any other public corporation, board, or body in any manner in which they mutually agree; or

(2) Delegate the operation of the program to a recreation board created by one (1) or more of them, and appropriate money voted for this purpose to that board.

(b)(1) The right of a school district to enter into such agreements with any other public corporation, board, or body, or the right to delegate power to a board for operating a program of recreation, shall be authorized only by a majority vote cast at an annual school election.

(2) However, state aid shall not be used for recreational purposes as provided in this subchapter.

History. Acts 1941, No. 291, § 2; A.S.A. 1947, § 19-3602.

6-21-503. Property used for activities — Acceptance of gifts and bequests.

(a) Any school district or board of directors thereof given charge of the recreation program is authorized to conduct its activities on:

(1) Property under its custody and management;

(2) Other public property under the custody of any other public organization, body, or board, with the consent of those corporations, bodies, or boards; and

(3) Private property, with the consent of its owners.

(b) The school district or board of directors thereof shall have authority to accept gifts and bequests for the benefit of the recreational service and to employ directors and instructors of recreational work.

History. Acts 1941, No. 291, § 3; A.S.A. 1947, § 19-3603.

6-21-504. [Repealed.]

Publisher's Notes. This section, concerning qualifications of recreational directors and instructors, was repealed by

Acts 1993, No. 475, § 20. The section was derived from Acts 1941, No. 291, § 4; A.S.A. 1947, § 19-3604.

6-21-505. Primary use of school facilities.

The facilities of any school district operating a recreation program pursuant to the provisions of this subchapter shall be used primarily for the purpose of conducting the regular school curriculum and related activities, and the use of school facilities for recreational purposes authorized by this subchapter shall be secondary.

History. Acts 1941, No. 291, § 5; A.S.A. 1947, § 19-3605.

SUBCHAPTER 6 — MISCELLANEOUS OFFENSES

- SECTION.
- 6-21-601 — 6-21-603. [Repealed.]
 - 6-21-604. Destruction of property.
 - 6-21-605. Injury to schoolhouse or fixtures.
 - 6-21-606. Annoying conduct by trespassers.
 - 6-21-607. Loitering on or near school grounds — Penalty — Definition.

- SECTION.
- 6-21-608. Concealment of guns or drugs — Definitions.
 - 6-21-609. Prohibition against smoking, the use of tobacco or tobacco products, or the use of e-cigarettes — Definition.

Effective Dates. Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the schools in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take

effect and be in force immediately after its passage."

Acts 1995, No. 567, § 8: Mar. 9, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that Arkansas law governing the expulsion of public school students determined to have brought a firearm or other prohibited weapon upon a school campus does not conform with current federal requirements set forth in the Gun-Free Schools Act of 1994; that failure to immediately remedy the law by legislative action will place federal funds received by the State of Arkansas in jeopardy. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

6-21-601 — 6-21-603. [Repealed.]

Publisher's Notes. These sections, concerning the interests of school officials in the sale of school supplies, were repealed by Acts 2001, No. 1599, § 21. The sections were derived from the following sources:

6-21-601. Acts 1933, No. 125, §§ 1-4; Pope's Dig., §§ 11659-11662; A.S.A. 1947, §§ 80-136 — 80-139; Acts 1999, No. 1323, § 23.

6-21-602. Acts 1931, No. 169, § 27; Pope's Dig., §§ 3613, 11466; A.S.A. 1947, § 80-1902; Acts 1999, No. 1078, § 83; 1999, No. 1323, § 24.

6-21-603. Acts 1949, No. 433, § 1; 1983, No. 368, § 1; A.S.A. 1947, § 80-1909; Acts 1987, No. 80, § 1.

6-21-604. Destruction of property.

(a) Any person who shall willfully destroy or injure any building used as a schoolhouse, or for educational purposes, or any furniture, fixtures, or apparatus thereto belonging, or who shall deface, mar, or disfigure any such building, furniture, or fixtures, by writing, cutting, painting, or pasting thereon any likeness, figure, words, or device without the consent of the teacher or other person having control of that house, furniture, or fixtures shall be fined in a sum double the value of the building, furniture, fixtures, or apparatus so destroyed or damaged and shall be fined in a sum not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each offense, to be recovered by civil action in any court of competent jurisdiction.

(b) The punishment provided in this section is in addition to and not in lieu of the punishment provided by other statutes for such offenses.

History. Acts 1931, No. 169, § 177; Pope's Dig., §§ 3592, 11619; A.S.A. 1947, § 80-1903.

6-21-605. Injury to schoolhouse or fixtures.

(a) To cut, write upon, deface, disfigure, or damage any part or appurtenance or enclosure of any schoolhouse shall be a violation punishable by a fine not exceeding one hundred dollars (\$100).

(b) Any fine collected under this act for injury to any schoolhouse or other school property shall be paid into the school funds of the school district where the crime was committed.

History. Acts 1931, No. 169, § 178; Pope's Dig., §§ 3593, 11620; A.S.A. 1947, § 80-1904; Acts 2005, No. 1994, § 69.

Meaning of "this act". Acts 1931, No. 169, codified as §§ 6-10-101 — 6-10-104, 6-10-107, 6-11-101 — 6-11-105, 6-11-106 [repealed], 6-11-107, 6-11-110, 6-11-111, 6-11-117, 6-12-109 [repealed], 6-12-206 [repealed], 6-13-101 — 6-13-104, 6-13-619, 6-13-620, 6-14-104 [repealed], 6-14-118, 6-16-103 — 6-16-105, 6-16-107, 6-17-

101 [repealed], 6-17-104, 6-17-105 [repealed], 6-17-401, 6-17-405 [repealed], 6-18-217, 6-18-219, 6-18-501, 6-18-507, 6-18-701, 6-19-102, 6-20-202 — 6-20-204, 6-20-208 [repealed], 6-20-215 — 6-20-217, 6-20-220 [repealed], 6-20-221, 6-20-222, 6-20-403, 6-20-408 [repealed], 6-20-1201, 6-20-1204 — 6-20-1215, 6-21-101, 6-21-602 [repealed], 6-21-604 — 6-21-606, 6-51-211 — 6-51-215, 26-80-101, 26-80-102, 26-80-104.

Cross References. Criminal mischief, first and second degree, §§ 5-38-203, 5-38-204.

6-21-606. Annoying conduct by trespassers.

Any persons who shall, by any boisterous or other conduct, disturb or annoy any public or private school in this state or any person not a student who after being notified to keep off the school grounds during the school hours by the board of directors, the superintendent, or principal teacher in charge of any such school shall continue to trespass on or go upon the grounds, whether at recess or during the sessions of the school, shall be guilty of a violation and upon conviction shall be fined in any sum not exceeding one hundred dollars (\$100), payable into the general school fund of the county.

History. Acts 1931, No. 169, § 180; Pope's Dig., § 11622; A.S.A. 1947, § 80-1906; Acts 2005, No. 1994, § 69. **Cross References.** Criminal trespass, § 5-39-203.

CASE NOTES

Disturbance.

Any act, the natural consequences of which were to disturb a school and which was willfully done and which in fact did disturb a school, came within the provisions of former similar provision though the actor may have had no specific intent to disturb the school; however, one who

went to a schoolhouse for a lawful purpose was not guilty of disturbing the school where, upon being violently assailed by another, he defended himself, though his acts in his necessary self-defense may have disturbed the school. *West v. State*, 105 Ark. 175, 150 S.W. 695 (1912) (decision under prior law).

6-21-607. Loitering on or near school grounds — Penalty — Definition.

(a) Any person who shall loiter upon or near the school grounds of any public or private school during school hours or at any school-sponsored activity such as ball games, dances, and other school-sponsored activities after regular school hours without any lawful business or purpose shall be guilty of a violation and upon conviction shall be subject to a fine of not less than fifty dollars (\$50.00) nor more than two hundred fifty dollars (\$250).

(b)(1) Nothing in this section shall be construed to prohibit any person who has a legitimate reason to visit any school from visiting it.

(2) If a person wishes to visit on the school grounds or in the school building, that person shall present himself or herself to the office of the school and receive both permission to visit and a pass to indicate that proper permission has been granted.

(3) Failure to request and receive permission as provided in this section shall be considered a violation of this section.

(4) As used in this section, "loiter" means to hang around or linger upon the grounds of any public school of this state or within one hundred feet (100') of the grounds of any public school in this state

unless any such person is on his or her own property, walking or driving to some destination other than the school grounds, transacting some lawful business at a business establishment located near the school grounds, or has meaningful business to transact at such a school.

History. Acts 1971, No. 75, § 1; A.S.A. 1947, § 80-1915; Acts 2005, No. 1994, § 69.
Cross References. Loitering, § 5-71-213.

6-21-608. Concealment of guns or drugs — Definitions.

(a) As used in this section:

(1) "School official" means any public school employee receiving compensation for services from any public school system in the State of Arkansas;

(2) "School-owned property" means any property located among premises owned in whole or in part by the state or any city, district, or county within the state, including but not limited to any desk, locker, file, or other tangible property assigned to, for the use of, or on loan to any student or other person using the property for his or her own use;

(3) "School premises" means any locale upon which is situated any school building; and

(4) "Supervisor" means any person who is employed as administrator or supervisor of any public school.

(b) It shall be unlawful for any student or any other person using school-owned property to conceal any gun, drug, or any other contraband in any desk, locker, or other school-owned property in this state.

(c)(1) Any school official employed in a supervisory capacity over students or other persons on school premises, upon receipt of information that guns, drugs, or other contraband are concealed in school-owned property, shall have the authority to investigate and search any school-owned property for any drugs, guns, or other contraband that may be concealed in the school-owned property, without the necessity of obtaining a search warrant from local authorities.

(2) In the event that contraband is discovered, it shall be seized and held by the supervisor of the school premises until appropriate action, as described in subsection (d) of this section, is taken.

(d)(1) Whenever a school official discovers any illegal drugs or other contraband in any school-owned property assigned to the use of an identifiable student or any other identifiable person, appropriate action for discipline, expulsion, discharge, or prosecution shall be within the discretion of the supervisor of the premises.

(2)(A) In the event that prosecution by local authorities is pursued, the supervisor shall release the contraband to the local prosecuting authorities to be used as evidence in court.

(B) Any evidence obtained by use of the procedure as defined in this section shall be legally admissible in any court in this state.

(e)(1)(A) If a school official discovers a gun or other firearm in any school-owned property assigned to the use of an identifiable student, that student shall be expelled for one (1) year.

(B) Provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis.

(2) In the event that prosecution by local authorities is pursued, the gun or other firearm shall be released to the local prosecuting authorities to be used as evidence in court and shall be legally admissible in any court in this state.

History. Acts 1975, No. 259, §§ 1, 2; A.S.A. 1947, §§ 80-1916, 80-1917; Acts 1995, No. 567, § 4; 1995, No. 1296, § 29; 2021, No. 544, § 51.

Amendments. The 2021 amendment, in (e)(1)(A), substituted “If” for “Whenever” and “a gun” for “any gun”; and

deleted “a period of not less than” preceding “one (1) year”.

Cross References. Civil War reenactments, § 6-5-501 et seq.

Possession of handgun by minor or possession on school property, § 5-73-119.

RESEARCH REFERENCES

Ark. L. Notes. Strickman, Schools, Guns and the Future of the Commerce Clause, 1995 Ark. L. Notes 77.

6-21-609. Prohibition against smoking, the use of tobacco or tobacco products, or the use of e-cigarettes — Definition.

(a) As used in this section, “e-cigarette” means an electronic oral device that provides a vapor of nicotine or another substance that, when used or inhaled simulates smoking, including without limitation a device that:

(1) Is composed of a heating element, battery, or electronic circuit, or a combination of heating element, battery, and electronic circuit;

(2) Works in combination with a liquid nicotine delivery device composed either in whole or in part of pure nicotine and propylene glycol and manufactured for use with e-cigarettes; and

(3) Is manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other name or descriptor.

(b) Smoking tobacco, the use of tobacco or tobacco products, or the use of e-cigarettes is prohibited:

(1) In or on real property owned or leased by a public school district, including a public charter school; or

(2) In or on personal property, including without limitation school buses, owned or leased by a public school district, including a public charter school.

(c) A copy of this statute shall be posted in a conspicuous location at every entrance to each building owned or leased by a public school district and every school bus used to transport public school students.

(d) A person who violates this section commits a violation punishable by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100).

History. Acts 1987, No. 854, §§ 1, 2; 1997, No. 779, § 1; 1999, No. 1555, § 1; 2005, No. 1994, § 70; 2013, No. 1099, § 1.

RESEARCH REFERENCES

ALR. Allowable Regulation of Electronic Cigarettes (E-Cigarettes). 46 A.L.R.7th Art. 5 (2019).

SUBCHAPTER 7 — SCHOOL MOTOR VEHICLE INSURANCE ACT

SECTION.

- 6-21-701. Title.
- 6-21-702. Purpose.
- 6-21-703. Public School Motor Vehicle Insurance Program — Participation.
- 6-21-704. Administration — Reports.
- 6-21-705. Powers and duties of Insurance Commissioner.
- 6-21-706. Information furnished by participants.

SECTION.

- 6-21-707. Inspection and safety program.
- 6-21-708. Policy limits.
- 6-21-709. Payment of claims — Subrogation — Premium rate — Excess insurance.
- 6-21-710. Public School Insurance Trust Fund — Investments.
- 6-21-711. [Repealed.]

A.C.R.C. Notes. Acts 2003 (2nd Ex. Sess.), No. 78, § 1, provided: “Purpose.

“(a) The purpose of this act is to provide for the administration and regulation of the Public Elementary and Secondary School Insurance Program and the School Motor Vehicle Insurance Program by the State Insurance Department and to amend various provisions of Arkansas Code §§ 6-20-1501 to 6-20-1515 and §§ 6-21-701 to 6-21-711. The responsibilities of the Department of Education for the regulation and administration of the Public Elementary and Secondary School Self-Insurance Program and the School Motor Vehicle Self-Insurance Program shall cease and its responsibilities shall be transferred to the State Insurance Department. The programs shall be known as the Public Elementary and Secondary School Insurance Program and the Public School Motor Vehicle Insurance Program.

“(b) The statutory authority, powers, duties, functions, including budgeting and purchasing, records, property, unexpended balances of appropriations, allocations, or other funds, and authorized positions but not the personnel of the Public Elementary and Secondary School Self-Insurance Program and the School Motor Vehicle Self-Insurance Program are trans-

ferred to the department. The transfer shall include each program’s prescribed powers, duties, and functions, including but not limited to rulemaking, regulation, and licensing; and the rendering of findings, orders and adjudications.

“(c) All forms for the administration and regulation of the programs, all trust agreements and arrangements, and all documents presently in use which have been previously approved by the Department of Education or the State Board of Education shall continue to be approved until otherwise determined by the Insurance Commissioner.

“(d) The Insurance Services Division of the Department of Education is transferred to the State Insurance Department by a type two (2) transfer under § 25-2-105. The transfer shall include the authorized positions but shall not include the personnel of the division.”

Effective Dates. Acts 1991, No. 824, § 21: Mar. 27, 1991. Emergency clause provided: “It is hereby found and determined by the Seventy-Eighth General Assembly that the cost of motor vehicle insurance for school districts has become almost prohibitive; that it is in the best interest of public education that a School Motor Vehicle Self-Insurance Program be

established and made operative as soon as practical and that this act is designed to accomplish this purpose and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 2003 (2nd Ex. Sess.), No. 78, § 26: Feb. 6, 2004. Emergency clause provided: "It is hereby found and determined by the General Assembly that assistance is necessary to minimize public school insurance costs; that the administration of public school insurance programs by the State Insurance Department will permit the Department of Education to concentrate its efforts and resources on improving public education; that this subchapter is designed to provide property and automobile liability and physical damage coverage for state public schools, educational cooperatives, and open-enrollment charter schools participating in the programs as economically as possible; and that this act should be effective immediately. Therefore, an emergency is declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor

vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 129: May 23, 2016. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the membership and duties of certain agencies, task forces, committees, and commissions and repeals other governmental entities; that these revisions and repeals of governmental entities impact the expenses and operations of state government; and that the provisions of this act should become effective as soon as possible to allow for implementation of the new provisions in advance of the upcoming fiscal year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-21-701. Title.

This subchapter shall be known and may be cited as the "School Motor Vehicle Insurance Act".

History. Acts 1991, No. 824, § 1; 2003 (2nd Ex. Sess.), No. 78, § 15.

6-21-702. Purpose.

(a) This subchapter is to establish and maintain a system of motor vehicle insurance for all public elementary and secondary schools, education service cooperatives, and open-enrollment public charter schools of Arkansas electing to participate in the program from and after July 1, 1991, with the Risk Management Division authorized, directed, and empowered to administer the program.

(b) The State Insurance Department shall adopt such rules as may be necessary to provide for the insuring of motor vehicles owned by participating public school districts within the State of Arkansas.

History. Acts 1991, No. 824, § 2; 2003 (2nd Ex. Sess.), No. 78, § 16; 2019, No. 315, § 304.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (b).

6-21-703. Public School Motor Vehicle Insurance Program — Participation.

(a) There is hereby established a Public School Motor Vehicle Insurance Program for all school motor vehicles of participating public school districts, education service cooperatives, and open-enrollment public charter schools in the State of Arkansas.

(b) Participation in the program provided for in this section shall be optional with each school district, education service cooperative, or open-enrollment public charter school.

History. Acts 1991, No. 824, §§ 3, 17; 2003 (2nd Ex. Sess.), No. 78, § 17; 2007, No. 617, § 27.

6-21-704. Administration — Reports.

(a) The State Insurance Department shall administer the Public School Motor Vehicle Insurance Program.

(b) The department is authorized to delegate to the Administrator of the Risk Management Division and staff such responsibilities as are deemed necessary in connection with the administration of this subchapter.

(c) The department shall report annually to the Governor and the General Assembly on the status of the program, including a detailed statement of investments and earnings.

History. Acts 1991, No. 824, §§ 4, 11; 2003 (2nd Ex. Sess.), No. 78, § 18.

6-21-705. Powers and duties of Insurance Commissioner.

It shall be the power and duty of the Insurance Commissioner to:

(1)(A) Establish in the State Insurance Department a program of insurance to cover motor vehicles owned by public school districts, education service cooperatives, and open-enrollment public charter schools.

(B) The program shall be in accordance with recognized and established insurance practices;

(2) Establish and, from time to time, modify the premium rates to be charged for various risks;

(3) Specify the form for insurance policies and other forms required for the purposes of this subchapter;

(4) Employ or contract for necessary officials, adjusters, appraisers, attorneys, and other personnel required in the administration of this subchapter;

(5) Engage in a loss control program to assist the public schools in improving and minimizing potential loss of life and property; and

(6) Perform all additional powers and duties necessary to maintain sound insurance underwriting practices recognized by good risk management.

History. Acts 1991, No. 824, § 5; 2003 (2nd Ex. Sess.), No. 78, § 19; 2007, No. 617, § 28.

6-21-706. Information furnished by participants.

(a) The Insurance Commissioner shall require each entity participating in the Public School Motor Vehicle Insurance Program to furnish to the Risk Management Division a complete list of each and every motor vehicle with full information in regard to the year, make, model, value, condition, and any other pertinent information.

(b) The commissioner shall have authority to require each participating entity to furnish a complete report of its motor vehicle insurance program, including the expiration dates of its contracts and loss histories.

History. Acts 1991, No. 824, § 6; 2003 (2nd Ex. Sess.), No. 78, § 20.

6-21-707. Inspection and safety program.

(a) The State Insurance Department is authorized to maintain an inspection and safety program designed to reduce the hazard of accidents involving motor vehicles insured under the Public School Motor Vehicle Insurance Program.

(b) The department may refuse to insure motor vehicles when it believes the vehicles to be a hazard to life or property. If the vehicle is deemed no longer insurable, thirty (30) days' notice must be given in advance of cancellation or nonrenewal.

History. Acts 1991, No. 824, § 8; 2003 (2nd Ex. Sess.), No. 78, § 21.

6-21-708. Policy limits.

(a) Liability policies shall meet the minimum legal requirements of the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq., with reference to coverage on motor vehicles.

(b) The State Insurance Department is authorized to include in the Public School Motor Vehicle Insurance Program and make available physical damage and medical payments coverage to the participating entities. Medical payments coverage shall be limited to five thousand dollars (\$5,000) per occupant of a school vehicle and shall be in addition to any other automobile medical payments coverage available to any occupant.

History. Acts 1991, No. 824, § 14; 2003 (2nd Ex. Sess.), No. 78, § 22.

6-21-709. Payment of claims — Subrogation — Premium rate — Excess insurance.

(a)(1) The Public School Insurance Trust Fund shall pay all losses and claims the insured is legally obligated to pay as specified in the contract.

(2) It shall be the duty of the State Insurance Department to coordinate, facilitate, and expedite details in connection with responsibilities outlined in the insurance contract.

(3) The department is hereby granted authority to contract for services with appraisers, adjusters, attorneys, or other professionals needed in order to expedite and facilitate the proper operation of the Public School Motor Vehicle Insurance Program.

(b) The program may require an assignment of rights of recovery to the extent that payment is made under any coverage provided by the program.

(c) If other insurance coverage exists, the program will pay its proportional share of the loss. The program's share shall be the proportion that the program's limits of liability bear to the total of all applicable limits.

(d)(1) Participating entities shall make payment of premium when demand is made as scheduled in the contract.

(2) Any school district, education service cooperative, or open-enrollment public charter school which does not pay the premium when due shall be charged a rate of interest at five percent (5%) per annum on all payments due and unpaid on the policy issued.

(3) The department may cancel insurance coverage for school districts, education service cooperatives, or open-enrollment public charter schools that fail to pay the premium due within thirty (30) days.

(4) The department shall give thirty (30) days' notice before any cancellation for nonpayment.

(e) The department's rules shall include such items as payment of premium and other pertinent items with reference to the premium rate, but its requirements shall not be more stringent than practices of commercial companies writing similar insurance in Arkansas.

History. Acts 1991, No. 824, §§ 9, 10, 12, 15; 2003 (2nd Ex. Sess.), No. 78, § 23; 2007, No. 617, § 29; 2007, No. 738, § 5; 2019, No. 315, § 305.

Amendments. The 2019 amendment

deleted "and regulations" following "rules" in (e).

Cross References. Public School Insurance Trust Fund, § 19-5-1134.

6-21-710. Public School Insurance Trust Fund — Investments.

(a) All funds received by the State Insurance Department as premiums, adjustments, earnings, and the like, as provided in this subchap-

ter, shall be deposited into the Public School Insurance Trust Fund and used for the following purposes, listed in a descending order of priority:

- (1) To defray administrative costs;
- (2) To pay claims; and
- (3) To maintain the Public School Insurance Trust Fund.

(b)(1) The department is authorized to invest funds of the Public School Motor Vehicle Insurance Program.

(2) Funds of the program may be invested and reinvested as the Insurance Commissioner may determine.

(3) Moneys invested and interest earned thereon shall be administered as program funds.

(4) All moneys deposited into the Public School Insurance Trust Fund shall not be subject to any deduction, tax, levy, or any other type of assessment.

History. Acts 1991, No. 824, §§ 13, 16; 2003 (2nd Ex. Sess.), No. 78, § 24; 2007, No. 738, § 6.

Publisher’s Notes. The Arkansas Insurance Investment Code, referred to in

this section, probably refers to § 23-63-801 et seq.

Cross References. Public School Insurance Trust Fund, § 19-5-1134.

6-21-711. [Repealed.]

Publisher’s Notes. This section, concerning the establishment of a Public Elementary and Secondary School Insurance Program and Public School Motor Vehicle Insurance Program Advisory Committee, was repealed by identical Acts

2016 (3rd Ex. Sess.), Nos. 2 and 3, § 3. The section was derived from Acts 1991, No. 824, § 7; 1997, No. 250, § 18; 1999, No. 391, § 21; 2003 (2nd Ex. Sess.), No. 78, § 25; 2005, No. 171, § 1; 2007, No. 738, § 7.

SUBCHAPTER 8 — ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES PROGRAM ACT

- SECTION.
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 - 6-21-816. Sale or lease of public school facilities.
 - 6-21-817. Public School Americans with Disabilities Act Compliance Committee.

Effective Dates. Acts 2005, No. 1426, § 7: Mar. 30, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has determined that current public school academic facilities in Arkansas are inadequate and inequitable; that the General Assembly established the Joint Committee on Educational Facilities to inventory the current condition of public school academic facilities and recommend methods for bringing those facilities into conformity with the court's constitutional expectations; that the programs established in this act are derived from recommendations of the joint committee and are part of a comprehensive state program for overseeing the provision of constitutionally appropriate public school academic facilities across the state; and that this program must be implemented immediately for the good of public school students in the State of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2006 (1st Ex. Sess.), No. 19, § 10: Apr. 11, 2006. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court declared the public school funding system to be inadequate and that public schools are operating under a constitutional infirmity which must be corrected immediately; that to correct the constitutional infirmity and to ensure adequate funding for public education, the General Assembly must revise the public school funding formula, revise laws regarding public school facilities, provide funding for retirement increases and limit additional increases; and enact other necessary reform measures; and that this act is immediately necessary to ensure that reform measures are available to public schools for the 2005-2006 and 2006-2007 school years. Therefore, an emergency is declared to exist and this act being immediately nec-

essary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2013, No. 600, § 24: Apr. 4, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that state oversight and intervention into distressed school districts is critical to the delivery of a constitutionally adequate education; and that the changes made in this act are immediately necessary for the state to meet this constitutional obligation. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2013, No. 1227, § 7: Apr. 16, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Public School Choice Act of 1989, § 6-18-206, have been found to be unconstitutional by a federal court; that thousands of public school students are currently attending public schools in nonresident school districts under that law; that there is now uncertainty about the viability of those transfers and future transfers; that this act repeals the disputed provisions of that law while preserving the opportunity for public school choice; and that this act is immediately necessary to resolve the uncertainty in the law before the 2013-2014 school year and preserve existing student transfers. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall be-

come effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations

of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-21-801. Title.

This subchapter is known as and may be cited as the “Arkansas Public School Academic Facilities Program Act”.

History. Acts 2005, No. 1426, § 1.

6-21-802. Intent.

(a) The General Assembly recognizes that:

(1) Intelligence and virtue are the safeguards of liberty and the bulwarks of a free and good government; and

(2) Arkansas Constitution, Article 14, § 1, requires the state to ever maintain a general, suitable, and efficient system of free public schools and to adopt all suitable means to secure the advantages and opportunities of education to the people of the State of Arkansas.

(b) The General Assembly finds that because of the opinions of the Supreme Court in the matter of Lake View School District No. 25 vs. Huckabee, it is the absolute duty of the State of Arkansas to provide all public school children with an opportunity for an adequate education, which includes access to adequate academic facilities and equipment.

(c) The General Assembly finds that in order to satisfy the constitutional expectations of the Supreme Court, the state should:

(1) Provide constitutionally appropriate public school academic facilities for the education of each similarly situated child in the public schools of Arkansas, regardless of where that child resides within the state;

(2) Require all public school academic facilities to meet applicable facilities standards established in this subchapter and rules adopted by the Commission for Arkansas Public School Academic Facilities and Transportation;

(3) Provide that all public school students are educated in facilities that are suitable for teaching in accordance with:

(A) Standards for accreditation adopted by the State Board of Education;

(B) Curriculum frameworks adopted by the state board; and

(C) Technology systems, instructional materials, and related academic equipment necessary to provide the adequate education explicated in subdivisions (c)(3)(A) and (B) of this section; and

(4) Require school districts to conserve and protect their academic facilities in such a manner that the academic facilities remain adequate.

(d) It is the intent of this subchapter to provide a system of state oversight of public school academic facilities so that school districts have academic facilities that support the opportunity for each public school student in the State of Arkansas to have an adequate education.

History. Acts 2005, No. 1426, § 1.

6-21-803. Definitions.

As used in this subchapter:

(1)(A) "Academic facility" means a building or space, including related areas such as the physical plant and grounds, where public school students receive instruction that is an integral part of an adequate education as described in § 6-20-2302.

(B) A public school building or space, including related areas such as the physical plant and grounds, used for an extracurricular activity or an organized physical activity course as defined in § 6-16-137 shall not be considered an academic facility for the purposes of this subchapter to the extent that the building, space, or related area is used for extracurricular activities or organized physical activities courses, except for physical educational training and instruction under § 6-16-132.

(C) Buildings or spaces, including related areas such as the physical plant and grounds, used for prekindergarten education shall not be considered academic facilities for purposes of this subchapter.

(D) District administration buildings and spaces, including related areas such as the physical plant and grounds, shall not be considered academic facilities for the purposes of this subchapter.

(E) A leased facility shall not be considered an academic facility for the purpose of this subchapter;

(2) "Annexation" means the joining of an affected school district or part of the school district with a receiving district under § 6-13-1401 et seq.;

(3) "Consolidation" means the joining of two (2) or more school districts or parts of the districts to create a new single school district under § 6-13-1401 et seq.;

(4) "Custodial activities" means routine and renovation cleaning activities related to the daily operations and upkeep of a public school facility, including related supervisory and management activities;

(5) "Facilities distress status" means a public school district identified by the Division of Public School Academic Facilities and Transportation as being in academic facilities distress status and classified by the Commission for Arkansas Public School Academic Facilities and Transportation as being in academic facilities distress status under this subchapter;

(6) "Facilities improvement plan" means a remedial plan developed by a school district for a public school or school district classified as being in academic facilities distress that supplements the school district's facilities master plan by:

(A) Identifying specific interventions and actions the public school or school district will undertake in order to correct deficient areas of practice with regard to custodial, maintenance, repair, and renovation activities with regard to academic facilities in the school district; and

(B) Describing how the school district will remedy those areas in which the school district is experiencing facilities distress, including the designation of the time period by which the school district will correct all deficiencies that placed the school district in facilities distress status;

(7) "Facilities master plan" means a six-year plan developed by a school district that contains:

(A) Enrollment projections for ten (10) years from the date of the plan;

(B) The school district's strategy for maintaining, repairing, renovating, and improving through new construction or otherwise the school district's academic facilities and equipment; and

(C) Other information as required by law;

(8) "Foundation funding" means the same as in § 6-20-2303;

(9) "Local resources" means any moneys lawfully generated by a school district for the purpose of funding the school district's share of financial participation in any academic facilities project for which a school district is eligible to receive state financial participation under priorities established by the division;

(10) "Maintenance, repair, and renovation" means any activity or improvement to a public school facility that maintains, conserves, or protects the state, condition, or efficiency of the public school facility;

(11)(A) "New construction" means any improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds, that brings the state, condition, or efficiency of the academic facility to a state of condition or efficiency better than the academic facility's current condition of completeness or efficiency.

(B) "New construction" includes a new addition to an existing academic facility and construction of a new academic facility;

(12) "Project" means an undertaking in which a school district engages in:

(A) Maintenance, repair, and renovation activities with regard to an academic facility;

- (B) New construction of an academic facility; or
- (C) Any combination of maintenance, repair, and renovation activities with regard to an academic facility and new construction activities with regard to an academic facility;
- (13) "Public school facility" means any public school building or space, including related areas such as the physical plant and grounds, that is used for any purpose, including, without limitation:
 - (A) An extracurricular activity;
 - (B) An organized physical activity course as defined in § 6-16-137;
 - (C) Prekindergarten education;
 - (D) District administration; or
 - (E) Delivery of instruction to public school students that is an integral part of an adequate education as described in § 6-20-2302;
- (14) "Reconstitution" means the reorganization of the administrative unit or the governing board of directors of a school district, including, but not limited to, the replacement or removal of a current superintendent or the removal or replacement of a current school district board of directors, or both;
- (15) "School district" means a geographic area that:
 - (A) Is governed by an elected board of directors that conducts the daily affairs of public schools under the supervisory authority vested in it by the General Assembly and § 6-13-101 et seq.; and
 - (B) Qualifies as a taxing unit for purposes of ad valorem property taxes under Arkansas Constitution, Article 14, § 3;
- (16) "Space utilization" means the number of gross square feet per student in an academic facility adjusted for academic program, school enrollment, grade configuration, and type of public school in accordance with rules promulgated by the Commission for Arkansas Public School Academic Facilities and Transportation; and
- (17) "Unused or underutilized public school facility" means a public school facility or other real property that:
 - (A) As a whole or in a significant portion, is not being used for a public educational, academic, extracurricular, or administrative purpose and the nonuse or underutilization threatens the integrity or purpose of the public school facility or other real property as a public education facility; and
 - (B) As of August 1, 2017, is not subject to:
 - (i) A lease to a third party for fair market value; or
 - (ii) An executed offer to purchase by a third party for fair market value.

History. Acts 2005, No. 1426, § 1; 2006 (1st Ex. Sess.), No. 19, § 4; 2007, No. 827, § 116; 2009, No. 1473, § 19; 2011, No. 1006, §§ 8-10; 2013, No. 600, § 17; 2017, No. 542, § 1.

Amendments. The 2017 amendment added (17).

6-21-804. Arkansas Public School Academic Facilities Program.

(a) The Division of Public School Academic Facilities and Transportation shall develop a comprehensive Arkansas Public School Academic Facilities Program that includes the following components:

(1) An Academic Facilities Master Plan Program that establishes a process by which:

(A) Each school district develops and submits a facilities master plan for review and approval by the division; and

(B) The division develops a comprehensive state master plan for managing state financial participation in local academic facilities projects across the state;

(2) A Public School Facilities Custodial, Maintenance, Repair, and Renovation Manual that contains uniform standards to direct custodial, maintenance, repair, and renovation activities in public school facilities;

(3) A Public School Academic Facility Manual that contains uniform standards to guide the planning, design, and construction of new academic facilities and additions to existing academic facilities;

(4) A Public School Academic Equipment Manual that contains uniform standards for technology systems, instructional materials, and related academic equipment determined to be necessary for a public school to provide an adequate education as described in § 6-20-2302; and

(5) An Academic Facilities Distress Program to assist school districts that are unable to conserve and protect their academic facilities in accordance with this subchapter and rules adopted by the Commission for Arkansas Public School Academic Facilities and Transportation.

(b) The commission shall promulgate rules necessary to administer the Arkansas Public School Academic Facilities Program, all its component and related programs, and the provisions of this subchapter, which shall promote the intent and purposes of this subchapter and assure the prudent and resourceful expenditure of state funds with regard to public school academic facilities throughout the state.

History. Acts 2005, No. 1426, § 1; 2006 (1st Ex. Sess.), No. 19, § 5.

6-21-805. Academic Facilities Master Plan Program — Purpose.

The purposes of the Academic Facilities Master Plan Program and this subchapter are to:

(1) Establish a mechanism for state supervision of school district activities impacting academic facilities and equipment;

(2) Develop and continually update information critical to identifying academic facilities needs at the local level and across the state; and

(3) Allow the state to manage state financial participation in eligible local academic facilities projects.

History. Acts 2005, No. 1426, § 1.

6-21-806. Academic Facilities Master Plan Program — School districts.

(a) The Academic Facilities Master Plan Program shall require each school district to:

(1) Develop a six-year districtwide facilities master plan that shall be approved by the school district's board of directors for submission to and approval by the Division of Public School Academic Facilities and Transportation;

(2) Base its facilities master plan on the provisions of the Arkansas Public School Academic Facility Manual as adopted by the Commission for Arkansas Public School Academic Facilities and Transportation, on priorities indicated by statewide assessment, on priorities established by the division statewide facility needs priority list, and on other pertinent data specific to the needs of the school district with regard to academic facilities and equipment;

(3) Present a draft of the school district's facilities master plan in a public hearing in the same locality as the school district and take public comments;

(4) Submit evidence of the school district's insurance coverage to the division, including coverage amounts, types of coverage, identification of buildings covered, policy renewal dates, and all riders;

(5) Submit the school district's facilities master plan with a summary of comments made at public hearing to the division by February 1 of each even-numbered year;

(6) Submit a report to the division by February 1 of each odd-numbered year that includes a description of all projects completed in the school district since the submission of the school district's most recent facilities master plan, the school district's current enrollment projections, new or continuing needs of the school district with regard to academic facilities and equipment, and an accounting of any changes in the school district's insurance coverage from the most recent submission; and

(7)(A) Submit a report to the division by February 1 of each year that identifies:

(i) All unused or underutilized public school facilities in the school district; and

(ii) The unused or underutilized public school facilities, if any, that are designated in the district's facilities master plan to be reused, renovated, or demolished as part of a specific committed project or planned new construction project.

(B)(i) The division shall identify a public school facility or other real property as an unused or underutilized public school facility if the school district fails to identify in the report the public school facility or other real property.

(ii) A school district may appeal an identification made by the division under subdivision (a)(7)(B)(i) of this section to the commission.

(b) A facilities master plan shall include, at a minimum, the following:

(1) A schedule of custodial activities for each public school facility used by a school district;

(2)(A) A schedule of maintenance, repair, and renovation activities for each public school facility used by a school district.

(B) The schedule shall distinguish between work associated with academic facilities and work associated with nonacademic public school facilities;

(3)(A) Documentation that describes preventive maintenance work for each public school facility and identifies the completion date of the work.

(B) The documentation shall distinguish between preventive maintenance work associated with academic facilities and preventive maintenance work associated with nonacademic public school facilities;

(4)(A) Annual expenditures of the school district for all custodial, maintenance, repair, and renovation activities in the school district.

(B) The section of the facilities master plan pertaining to the annual expenditures under subdivision (b)(4)(A) of this section shall distinguish between expenditures associated with academic facilities and expenditures associated with nonacademic public school facilities;

(5) A projected replacement schedule for major building systems in each public school facility;

(6) Identification of issues with regard to public school facility and program access to individuals with disabilities and, if necessary, proposed methods for improving access;

(7)(A) Identification of committed projects within the school district that includes, as applicable, a breakdown of the portion of each project into maintenance, repair, and renovation activities and new construction activities.

(B) The portion of a committed project pertaining to maintenance, repair, and renovation activities shall identify, as applicable, maintenance, repair, and renovation activities associated with academic facilities and maintenance, repair, and renovation activities associated with nonacademic public school facilities;

(8) Annual expenditures of the school district for capital outlay;

(9) A description of planned new construction projects with cost estimates for each public school facility within the school district and needs prioritized as follows:

(A) Immediate needs that the school district intends to address within three (3) years following the submission of the facilities master plan; and

(B) Long-term needs that the school district intends to address within the four (4) to six (6) years following the submission of the facilities master plan;

(10) Evidence of the school district's insurance coverage, including coverage amounts, types of coverage, identification of public school facilities covered, policy renewal dates, and all riders; and

(11) An update in a format prescribed by the division of any new public school facilities, as defined in § 6-21-803, constructed since the last master plan submission, including individual room types and sizes.

(c) A consultation meeting between representatives of the school district and members of the division to discuss the development of the school district's facilities master plan shall be held upon request of the school district.

(d) The division shall review and upon all requirements' being met approve a school district's facilities master plan no later than September 1 of each even-numbered year and shall notify a school district no later than May 1 of each odd-numbered year whether the school district's application for state financial participation during the upcoming biennium in an eligible new construction project has been approved.

(e)(1) A school district may amend its facilities master plans at any time during the six-year cycle specified in § 6-21-803.

(2) An amendment may be submitted out of the regular even-numbered year cycle if the school district:

(A) Has encountered:

- (i) A major enrollment change;
- (ii) A major curriculum change;
- (iii) A major disaster; or
- (iv) An unforeseen occurrence; or

(B)(i) Has begun or completed a self-funded construction project over which the division has only review authority.

(ii) An amendment submitted under subdivision (e)(2)(B)(i) of this section may be submitted in the form of an appendix to the existing school district facilities master plan.

History. Acts 2005, No. 1426, § 1; 2006 (1st Ex. Sess.), No. 19, § 6; 2007, No. 989, §§ 16, 17; 2009, No. 1473, § 20; 2011, No. 1006, §§ 11, 12, 12[13]; 2017, No. 542, § 2; 2017, No. 935, § 8; 2021, No. 126, § 6.

Amendments. The 2017 amendment by No. 542 added (a)(7).

The 2017 amendment by No. 935 added (b)(11).

The 2021 amendment deleted former (c)(1) and (c)(3); redesignated former (c)(2) as (c); and rewrote (c).

6-21-807. Academic Facilities Master Plan Program — State plan.

(a) The Division of Public School Academic Facilities and Transportation shall develop a comprehensive state academic facilities master plan for managing state financial participation in local academic facilities projects across the state.

(b) The state academic facilities master plan shall include:

(1) A list of committed projects for public school academic facilities for the upcoming fiscal year categorized by program and method of state financial participation;

(2) The total estimated cost of each committed project and the estimated amount of state financial participation; and

(3) A four-year rolling forecast of planned new construction projects related to public school academic facilities.

History. Acts 2005, No. 1426, § 1.

6-21-808. Public School Facilities Custodial, Maintenance, Repair, and Renovation Manual.

(a) The purposes of the Public School Facilities Custodial, Maintenance, Repair, and Renovation Manual and this section are to:

(1) Provide for the long-term conservation and protection of public school facilities;

(2) Eliminate the deterioration of existing and future public school facilities;

(3) Provide a safe and healthy environment for students, teachers, administrators, and staff of the public schools; and

(4) Provide for the efficient use of state and local funds in support of academic facilities in each school district in the state.

(b)(1) The manual shall contain standards for custodial operations related to public school facilities.

(2) Standards for custodial operations in public school facilities shall include the following:

(A) The required contents of a custodial care plan;

(B) A suggested schedule for routine care and renovation cleaning;

(C) Levels of personnel necessary to perform custodial operations;

(D) Training criteria for the use and storage of supplies and equipment, with emphasis given to chemical right-to-know, indoor air quality, and other applicable standards;

(E) Supplies and equipment necessary to perform custodial operations, including space standards for the proper storage of supplies and equipment;

(F) In-service training opportunities for custodial personnel;

(G) Designation of routine duties;

(H) Designation of renovation cleaning duties; and

(I) Suggested schedule for the sanitary inspection of all school buildings.

(c)(1) The manual shall contain standards for maintenance, repair, and renovation activities related to public school facilities.

(2) Standards for maintenance, repair, and renovation activities in public school facilities shall include the following:

(A) The required contents of a preventive maintenance plan, which shall include guidelines for:

(i) Scheduling preventive maintenance activities for public school facilities;

(ii) Preparing and retaining documentation that describes preventive maintenance work related to public school facilities and identifies the completion date of the work;

(iii) Scheduling lawfully required inspections of public school facilities conducted by state agencies and commissions; and

(iv) Scheduling the inspections specified by the Commission for Arkansas Public School Academic Facilities and Transportation relating to safe, dry, and healthy public school facilities;

(B)(i) Development and implementation of a work-request system to allow others to inform a public school's maintenance department of needs and to allow the responsible person to prioritize responses.

(ii)(a) School districts shall participate in any state-level computerized maintenance management system designed to track work orders and preventative maintenance work established by the Division of Public School Academic Facilities and Transportation at no cost to the school district.

(b) The cost associated with additional maintenance modules by a school district shall be at the expense of the school district and may be within the nine-percent minimum maintenance expenditures under subdivision (d)(1)(A) of this section.

(c) School district use of the computerized management maintenance system under this subdivision (c)(2)(B)(ii) shall include without limitation:

(1) Entering and tracking all reactive and preventative maintenance work;

(2) Entering preventative maintenance schedules for academic and nonacademic facilities' systems;

(3) Documenting completed reactive and preventative maintenance work; and

(4) Scheduling state-mandated inspections as required under § 6-21-813(e);

(C) Levels of personnel necessary to perform maintenance operations;

(D) Training criteria for maintenance personnel with regard to:

(i) School policies;

(ii) Safety procedures;

(iii) Use of specialized equipment;

(iv) Compliance with federal, state, county, and municipal laws and regulations impacting public school facilities and equipment; and

(v) Other applicable areas;

(E) In-service training opportunities for maintenance personnel;

(F) Inspection, cleaning, servicing, and repair of heating, ventilation, and air-conditioning systems;

(G) Inspection and repair of:

(i) Electrical systems;

(ii) Hot water boilers and heaters;

(iii) Fire alarms;

(iv) Fire extinguishers and kitchen hood vent suppression systems;

- (v) Emergency lighting and exit light fixtures;
 - (vi) Elevators and wheelchair lifts;
 - (vii) Plumbing;
 - (viii) Roofs;
 - (ix) Stairwell areas;
 - (x) Interior and exterior lighting;
 - (xi) Doors and windows;
 - (xii) Floor coverings;
 - (xiii) Masonry and concrete building exteriors;
 - (xiv) Interior and exterior finishes;
 - (xv) Kitchen equipment;
 - (xvi) Sidewalks, driveways, parking areas, and paved play areas;
- and
- (xvii) Parking lots, handicap parking spaces, driveways, fire and emergency vehicle zones, and bus and car loading and unloading areas;
 - (H) Inspection and repair and servicing of fire sprinkler systems;
 - (I) Maintenance of a pest control program;
 - (J) Inspection of playground equipment; and
 - (K) Grounds maintenance.

(d)(1)(A) Each school district shall dedicate nine percent (9%) of its foundation funding exclusively to payment of utilities and costs of custodial, maintenance, repair, and renovation activities, which include related personnel costs, for public school facilities.

(B)(i) If any amount of the dedicated nine percent (9%) is unspent at the end of the school district's fiscal year, the funds shall carry over, and the school district shall transfer the remaining amount into a public school facilities escrow account.

(ii) A school district may use funds from its public school facilities escrow account in any fiscal year for payment of utilities and costs of custodial, maintenance, repair, and renovation activities, which include related personnel costs, for public school facilities.

(iii)(a) If a school district wants to use funds from its public school facilities escrow account for new construction, the school district shall apply to the division for its approval.

(b) If the division authorizes the release of funds from the school district's public school facilities escrow account and approves the new construction, the school district may use the funds as authorized by the division.

(2)(A) A school district is not required to use funds in its public school facilities escrow account for new construction.

(B)(i) New construction shall be funded by local resources, which may include funds in the school district's public school facilities escrow account if approved by the division.

(ii) In addition, new construction may be eligible for state financial participation.

History. Acts 2005, No. 1426, § 1; 2006 (1st Ex. Sess.), No. 19, § 7; 2009, No. 1473, §§ 21, 22; 2009, No. 1475, § 2; 2019, No. 933, § 1.

Amendments. The 2019 amendment deleted “be required to” preceding “participate” in (c)(2)(B)(ii)(a); and added (c)(2)(B)(ii)(c).

6-21-809. Arkansas Public School Academic Facility Manual.

(a) The Arkansas Public School Academic Facility Manual shall contain uniform standards to guide the planning, design, and construction of new public school academic facilities and additions to existing public school academic facilities.

(b) Design and construction standards shall include provisions addressing the following areas:

(1) Planning concepts related to current educational best practices, special education, workforce development, and program and design capacity;

(2) Organizational, facility, program, and service issues, including grade configuration, school size, and class size;

(3)(A) Site selection, including without limitation guidelines about site size and site amenities, such as site access, grading, drainage, drives, parking, walks, fencing, exterior security provisions, exterior lighting, mechanical yards, electrical yards, site furnishings, play fields, playgrounds, and landscaping.

(B)(i) A public school district shall notify the Arkansas Department of Transportation of its site selection under subdivision (b)(3)(A) of this section.

(ii) Upon receipt of notification under subdivision (b)(3)(B)(i) of this section, the department may perform a traffic impact analysis to determine the impact the public school district's facility design or construction project may have on traffic.

(iii) A public school district may incorporate the results and recommendations that address the results of the traffic impact analysis into the design plan for a public school district facility design or construction project.

(iv) Notwithstanding other statutes to the contrary, the cost of any recommendations under subdivision (b)(3)(B)(iii) of this section may be considered an eligible construction expense for any design or construction project undertaken by a public school district.

(v)(a) Nonrevenue receipts of a school district and revenue receipts of a school district, as defined under § 6-20-401(3) and (4), may be used to pay for the cost of any recommendations under subdivision (b)(3)(B)(iii) of this section.

(b) However, facilities partnership funds shall not be used to pay for the cost of recommendations under subdivision (b)(3)(B)(iii) of this section.

(vi) The Commission for Arkansas Public School Academic Facilities and Transportation shall, in consultation with the department, promulgate rules necessary to implement this subdivision (b)(3)(B);

(4) Standards for size and quantity of instruction and support spaces;

(5) Program space guidelines, including necessary features, loose furnishings, and finishes related to identified programs and services;

(6) Design standards and guidelines regarding the quality of materials and systems for the following building systems:

(A) Fire and safety;

(B) Roofing;

(C) Structural;

(D) Heating, ventilation, and air conditioning;

(E) Plumbing;

(F) Electrical;

(G) Exterior;

(H) Interior;

(I) Technology; and

(J) Specialties, including equipment and furnishings; and

(7) Repair and construction cost guidelines.

(c) The manual shall also include provisions addressing the following areas:

(1)(A) A process by which a school district may apply for a variance from applicable academic facility standards upon presenting evidence of:

(i) The existence of conditions that make compliance with applicable standards impractical or unreasonably burdensome; and

(ii) Other conditions determined by the Division of Public School Academic Facilities and Transportation as warranting a variance from applicable public school academic facility standards.

(B) The variance provision shall address minimum standards for academic facilities that are reasonably expected to close or be replaced within three (3) years;

(2) Review and approval of all plans and designs for major building systems related to new construction of academic facilities before preparation of final bid or other applicable procurement documents;

(3) Site inspections of all major building and design systems at appropriate stages of construction;

(4) Contingency plans for review and inspection by the division if appropriate state, local, or other officials are unable or unwilling to complete an appropriate plan review or site inspection; and

(5) The short-term temporary use of premanufactured portable buildings.

(d) The division shall review and update the manual on an annual basis.

History. Acts 2005, No. 1426, § 1; added (b)(3)(B) and redesignated former 2015, No. 722, § 4; 2019, No. 858, § 1. (b)(3) as (b)(3)(A); and inserted “without

Amendments. The 2019 amendment limitation” in (b)(3)(A).

6-21-810. Public School Academic Equipment Manual.

(a) The Public School Academic Equipment Manual shall contain uniform standards for technology systems, instructional materials, and related academic equipment determined to be necessary for a public school to provide an adequate education as described in § 6-20-2302.

(b)(1) The standards for technology systems, instructional materials, and related academic equipment shall address the following areas:

- (A) Science and mathematics;
- (B) Library media center;
- (C) English and language arts;
- (D) Foreign languages;
- (E) Social studies;
- (F) Health education and physical education;
- (G) Art;
- (H) Music;
- (I) Guidance and health services; and
- (J) Workforce education.

(2) The standards shall account for variations in a school district's use of and need for technology systems, instructional materials, and related academic equipment such as size of school district, grade configuration of schools within the school district, number of course offerings available, and enrollment levels.

(3) The standards shall establish a method for creating, maintaining, and updating an inventory of public school academic equipment, including, without limitation, technology systems, instructional materials, and related academic equipment.

History. Acts 2005, No. 1426, § 1.

6-21-811. Academic Facilities Distress Program.

(a) The Commission for Arkansas Public School Academic Facilities and Transportation shall classify a public school or school district as being in academic facilities distress if the Division of Public School Academic Facilities and Transportation recommends and the commission concurs that the public school or school district has engaged in actions or inactions that result in any of the following:

(1) Any act or violation determined by the division to jeopardize any academic facility used by a public school or school district, including, but not limited to:

- (A) Material failure to properly maintain academic facilities in accordance with this subchapter and rules adopted by the commission;
- (B) Material violation of local, state, or federal fire, health, or safety code provisions or laws;
- (C) Material violation of applicable building code provisions or law;
- (D) Material failure to provide timely and accurate facilities master plans to the division;

(E) Material failure to comply with state law governing purchasing, bid requirements, or school-construction-related laws or rules in relation to academic facilities projects;

(F) Material default on any school district debt obligation; or

(G) Material failure to plan and progress satisfactorily toward accomplishing the priorities established by the division and the approved school district's facilities master plan; and

(2) Any other condition of an academic facility or facilities in a public school or school district that is determined by the division to have a detrimental impact on educational services provided by that public school or school district.

(b) The division shall provide written notice, via certified mail, return receipt requested, to the president of the board of directors and the superintendent of the school district identified or containing a school identified by the division as being in facilities distress.

(c)(1) By August 31 of each year, the division shall notify the superintendent of a school district if the division is aware the school district has experienced two (2) or more indicators of facilities distress in one (1) school year that the division deems to be nonmaterial but that without intervention could place the district in facilities distress.

(2) The superintendent of a school district shall report to the division if the superintendent is aware the school district has experienced two (2) or more indicators of facilities distress in one (1) school year that the superintendent deems to be nonmaterial but that without intervention could place the district in facilities distress.

(3)(A) The division and the superintendent shall review all data related to the nonmaterial indicators of facilities distress.

(B)(i) Within thirty (30) days of the division's determination that the school district may be experiencing facilities distress at a non-material level, the division shall provide a notice to the school district's superintendent and board of directors that:

(a) Describes the nonmaterial indicators of facilities distress that could have a detrimental impact on educational services provided by the affected public school or the school district if not addressed; and

(b) Identifies the support available from the division to address each nonmaterial indicator of facilities distress.

(ii) The board of directors shall place on the agenda for the next regularly scheduled meeting of the board of directors a discussion of the notice of nonmaterial indicators of facilities distress.

(4)(A) If any condition of an academic facility raises a significant health or safety issue, the superintendent of the school district where the academic facility is located or the person responsible for the management of the academic facility shall immediately notify the division and the board of directors of the school district.

(B) The board of directors shall place on the agenda for the next regularly scheduled meeting of the board of directors a discussion of the notice of the significant health or safety issue.

(d)(1) A public school or school district classified by the commission as being in facilities distress shall develop a facilities improvement plan

within thirty (30) days from the date of classification and promptly submit the facilities improvement plan to the division for review and approval.

(2) A public school or school district shall review and revise its facilities improvement plan on a periodic basis as determined by the division and submit the updated facilities improvement plan to the division in order for the division to determine whether the public school or school district is correcting its deficient areas of practice regarding academic facilities.

(3) A school district shall use facilities improvement plans as necessary to supplement and update its facilities master plan.

(e)(1) Every two (2) years, the division shall determine whether the progress of each school district complies with the school district's facilities master plan and shall notify the school district of any noncompliance.

(2) Every two (2) years, the division shall review the applications made for the Academic Facilities Partnership Program established under § 6-20-2507, to identify any school district that did not apply for state funding for necessary facilities to meet adequacy requirements and shall notify the school district of any deficiencies.

(3) Within thirty (30) days of receiving the notice provided under subdivision (e)(1) or subdivision (e)(2) of this section, the school district shall submit a facilities improvement plan to the division for its review and approval that states how the school district will address the noncompliance issues contained in the notice.

(4) If the division does not approve the facilities improvement plan submitted by the school district, it shall identify the school district as being in facilities distress.

(5) A school district may appeal the identification of the division under this subsection to the commission pursuant to the procedures established by the commission.

(f)(1)(A) Within ten (10) days of a school district's failure to pass a millage required to fulfill its obligations under the school district's facilities master plan, the division shall provide written notice to the school district of the date, time, and place for a conference with the school district at which the division will:

(i) Determine whether as a result of the failed millage there are facilities issues relating to:

(a) Immediate repairs under § 6-20-2504(b)(4) [repealed];

(b) The presence and number of suitability needs of public school academic facilities, which shall be defined by rule; or

(c) Immediate need for academic facilities to meet student growth; and

(ii) Thoroughly discuss and explain the sanctions and requirements that are available to the commission if the school district or a school within the district is classified by the commission as being in facilities distress under this section and § 6-21-812.

(B) The written notice shall be provided via certified mail to the president of the school district board of directors and the superintendent of the school district.

(C) The commission shall establish rules for the implementation of this subdivision (f)(1).

(2)(A) If the commission determines that there are immediate repairs, growth, or suitability issues that require expedited attention, the commission may direct the school district to conduct a special election to vote on a millage increase.

(B)(i) The division and the school district shall agree upon the issues to be submitted for a vote in the special election.

(ii) The special election may not include any issues other than the issues that are mutually agreed upon.

(C) The special election shall be held on a date that is:

(i) Mutually agreed upon by the division and the school district; and

(ii) Not later than seven (7) months from the date of the election at which the millage failed unless it is necessary to extend the date beyond seven (7) months because of restrictions on the number of elections that may be held within a calendar year.

(D) If within ninety (90) days from the notice provided to the school district under subdivision (f)(1)(A) of this section the school district has not set an election date, the division shall identify the school district as being in facilities distress.

(E)(i) If the school district is able to finance the immediate repairs, growth, and suitability improvements without the necessity of a special election on increasing its millage, the school district may enter into an agreement with the division to fund its improvements separately, which shall include an implementation timeframe.

(ii) The division shall identify the school district as being in facilities distress for failure to implement the agreed upon plan for immediate repairs, growth, and suitability improvements within the timeframe specified in the agreement.

(g) When a school district is classified by the commission to be in facilities distress, the division may, with the approval of the commission:

(1)(A) Provide on-site technical evaluation and assistance and make written recommendations to the school district superintendent regarding the care and maintenance of any academic facility in the school district.

(B) Any school district classified as being in facilities distress status shall accept on-site technical evaluation and assistance from the division.

(C) The written recommendations of the division are binding on the school district, the superintendent, and the board of directors;

(2) Remove permanently, reassign, or suspend on a temporary basis the superintendent of the school district, and:

(A) Appoint an individual in place of the superintendent to administratively operate the school district under the supervision and

approval of the Commissioner of Elementary and Secondary Education;

(B) Compensate the individual operating the school district from school district funding; and

(C) Authorize the individual to remove, replace, reassign, or suspend public school district personnel in accordance with state law;

(3) Suspend or remove some or all of the current board of directors and call for the election of a new board of directors for the school district, in which case the school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;

(4)(A) Remove on a temporary basis some or all of the powers and duties granted to the current public school district board of directors under § 6-13-620 or any other applicable law but allow the public school district board of directors to continue to operate under the direction and approval of the Commissioner of Elementary and Secondary Education.

(B) The commission shall define the powers and duties of the public school district board of directors under this section.

(C) The public school district board of directors shall act in an advisory capacity to the Commissioner of Elementary and Secondary Education with respect to all other powers and duties maintained by the Commissioner of Elementary and Secondary Education;

(5) Require the school district to operate without a board of directors under the supervision of the superintendent or an individual or panel appointed by the Commissioner of Elementary and Secondary Education;

(6) Waive the application of Arkansas law or the corresponding State Board of Education or commission rules, with the exception of:

(A) The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.;

(B) The Public School Employee Fair Hearing Act, § 6-17-1701 et seq.;

(C) Special education programs as provided in this title;

(D) Conducting criminal background checks for employees as provided in this title; and

(E) Health and safety codes as established by the state board, the commission, and local governmental entities;

(7) In the absence of a school district board of directors, direct the Commissioner of Elementary and Secondary Education to assume all authority of the board of directors as may be necessary for the day-to-day governance of the school district;

(8) Require reassignment of some or all of the administrative, instructional, or support staff of a public school;

(9) Require reorganization, closure, or dissolution of one (1) or more of the public schools within the classified school district;

(10)(A) Return the administration of the school district to the former board of directors or place the administration of the school district in a newly elected board of directors if:

(i) The division certifies in writing to the commission and to the school district that the school district has corrected all issues that caused the classification of facilities distress and the school district has not experienced any additional indicators of facilities distress; and

(ii) The commission determines the school district has corrected all issues that caused the classification of facilities distress.

(B) If the division calls for an election of a new school district board of directors, the school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;

(11) Require school district staff and employees to attend training in areas of concern for the public school or school district;

(12)(A) Require a school district to cease all expenditures related to activities not described as part of an adequate education in § 6-20-2302 and place money that would have been spent on the activities into an academic facilities escrow account to be released only upon approval by the division for use in conjunction with a local academic facilities project.

(B) School districts shall include a clause addressing this contingency in all contracts with personnel who are involved with activities not described as part of an adequate education;

(13) Notify the public school or school district in writing that the deficiencies regarding academic facilities shall be corrected within a time period designated by the division;

(14)(A) Petition the state board at any time for the consolidation, annexation, or reconstitution of a school district in facilities distress or take other appropriate action as allowed by this subchapter in order to secure and protect the best interest of the educational resources of the state or to provide for the best interest of students in the school district.

(B) The state board may approve the petition under subdivision (g)(14)(A) of this section or take other appropriate action as allowed by this subchapter.

(C) Except as established in subdivision (g)(14)(D) of this section or subsection (n) of this section, the state board shall consolidate, annex, or reconstitute any school district that fails to remove itself from the classification of a school district in facilities distress within five (5) consecutive school years of classification of facilities distress status.

(D) The state board may grant additional time for a public school or school district to remove itself from facilities distress by issuing a written finding supported by a majority of the state board explaining in detail that the public school or school district could not remove itself from facilities distress during the relevant time period due to impossibility caused by external forces beyond the control of the public school or school district;

(15) Correct the failure of a school district to complete its agreed plan or to pass the millage in the special election under subdivision (f)(2) of

this section by contracting for and completing the necessary improvements under the agreed plan;

(16)(A) If the academic facilities in the public school district in facilities distress are inadequate to provide an adequate education, recommend that the state board dissolve the school district and transfer students to public schools in other public school districts.

(B) If the state board elects to dissolve the school district and transfer students to public schools in other public school districts, the state board shall assign the public school district's territory, property, and debt; and

(17) Take any other action allowed by law that is deemed necessary to assist a public school or school district in correcting the issues that caused the classification of facilities distress, to secure and protect the best interest of the educational resources of the state, or to provide for the best interest of students in the school district.

(h) No school district identified by the division as being in facilities distress may incur any debt without the prior written approval of the commission.

(i) A public school or school district in facilities distress may petition the commission for removal from facilities distress status only after the division has certified in writing that the public school or school district has corrected all criteria for being classified as in facilities distress and has complied with all division recommendations and requirements for removal from facilities distress status.

(j) The division shall submit a written evaluation on the status of each school district in facilities distress to the commission and the state board at least one (1) time every six (6) months.

(k)(1)(A) If a school district is classified by the commission as being in facilities distress and has immediate repairs, growth, or suitability improvement issues, the division, in addition to any other remedy under this section and § 6-21-812, may provide a loan to the school district to be repaid from any funds available that are not required to provide an adequate education.

(B)(i) Funds available that are not required to provide an adequate education include:

(a) Fund balances and any cash on hand that are not part of foundation funding or categorical funding under § 6-20-2305 and are not otherwise required to provide an adequate education for students in the public school district; and

(b) Revenues that are not obligated on bonds.

(ii) Funds remaining after the annual payment on a bond obligation are included in funds that are not required to provide an adequate education.

(2) The public school district shall repay the loan on the schedule determined by the division.

(l) The commission in conjunction with the Academic Facilities Oversight Committee shall:

(1) Reexamine the role and function of the State Facility Assessment of 2004;

(2) Assess the progress made by the state in the mandates of the Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31, 91 S.W.3d 472 (2002); and

(3) Make needed changes in the implementation of the academic facilities program by modifying the commission's rules.

(m)(1) If, by the end of the fifth school year following the school district's classification of facilities distress status, the school district in facilities distress has not corrected all issues that caused the classification of facilities distress, the state board, upon petition from the commission or the division and after a public hearing, shall consolidate, annex, or reconstitute the school district under this section.

(2) The state board may grant additional time for a public school or school district to remove itself from facilities distress by issuing a written finding supported by a majority of the state board explaining in detail that the public school or school district could not remove itself from facilities distress during the relevant time period due to impossibility caused by external forces beyond the control of the public school or school district.

(n) This section does not prevent the division, the commission, or the state board from taking any of the actions listed in this section at any time to address a public school or school district in facilities distress.

History. Acts 2005, No. 1426, § 1; 2007, No. 989, § 18; 2007, No. 996, § 2; 2009, No. 798, § 2; 2009, No. 1473, § 23; 2013, No. 600, §§ 18-23; 2017, No. 935, §§ 9, 10; 2019, No. 315, § 306; 2019, No. 910, § 1732; 2019, No. 933, §§ 2, 3.

A.C.R.C. Notes. Acts 2007, No. 996, § 1, provided: "FINDINGS.

"The General Assembly finds that:

"(1) The General Assembly adopted Acts 34 and 35 of the First Extraordinary Session of 2006 to determine whether school districts were unable to contribute local resources necessary to qualify for participation in state-funded facilities programs;

"(2) School districts with insufficient bonding capacity were accommodated by the passage of Acts 22 and 23 of the First Extraordinary Session of 2006, which removed the bonded debt ratio, thus removing the cap on bond issuance;

"(3) School districts with declining enrollment were addressed by Act 2206 of 2005 by allowing a three-year average to be used in determining the school district's facilities wealth index and by Act 21 of the First Extraordinary Session of 2006, which provided additional funding for declining enrollment based on the previous two (2) years' average daily mem-

bership. No evidence was presented during the hearings held in 2006 pursuant to Act 57 of any school district suffering from a problem related to this;

"(4) The General Assembly researched a school district with a low assessed property valuation and a low facilities wealth index and determined that it is treated the same as a school district with high property valuation and a high facilities wealth index. The research indicated, for example, that Poyen is required to use the same amount of mills to build facilities for ten percent (10%) of its students as Bryant, which is in the middle, and as Bentonville, which is on top. No evidence was presented during the hearings held in 2006 pursuant to Act 57 of any school district suffering from a problem related to this; and

"(5) School districts at or above the 95th percentile are addressed through SB962 of the 86th General Assembly. It provides that every school district at 100% of the facilities wealth index or above is adjusted to the same amount as the first district below one hundred percent (100%) on the facilities wealth index, unless that would exceed five thousandths (.005). In that case, the amount is capped at five thousandths (.005). No evidence was pre-

sented during the hearings held in 2006 pursuant to Act 57 of any school district suffering from a problem related to this.”

Acts 2007, No. 996, § 3, provided: “The document attached hereto titled ‘Arkansas Department of Education, Analysis of the Academic Facilities Wealth Index for Providing Facilities for 10% of a District’s ADM’, dated March 8, 2007, is specifically adopted by the House Education Committee and the Senate Education Committee and recommended to the General Assembly and shall be filed in the journals of the House and Senate.”

Amendments. The 2017 amendment substituted “subsection (n)” for “subsection (m)” in (g)(11)(C); and substituted “second full school year following the assumption of authority” for “second school year following a school district’s classification as being in facilities distress status” in (m)(1).

The 2019 amendment by No. 315 deleted “and regulations” following “rules” in the introductory language of (g)(5) [now (g)(6)].

The 2019 amendment by No. 910 substituted “Division of Public School Academic Facilities and Transportation” for

“division” throughout the section; substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (g)(2)(A); in (m), substituted “Division of Elementary and Secondary Education” for “Department of Education”; and made stylistic changes.

The 2019 amendment by No. 933 rewrote (g)(2)(B); added (g)(2)(C); inserted (g)(4) and redesignated the remaining subdivisions accordingly; inserted “or commission” in the introductory language of (g)(6); added (g)(6)(C) through (g)(6)(E); redesignated former (g)(6) as (g)(7); inserted (g)(8) and (g)(9) and redesignated the remaining subdivisions accordingly; added “and the school district has not experienced any additional indicators of facilities distress” in (g)(10)(A)(i); inserted “under subdivision (g)(14)(A) of this section” in (g)(14)(B); in (g)(14)(C), substituted “established” for “set forth” and substituted “(g)(14)(D)” for “(g)(11)(D)”; rewrote (g)(16); repealed former (m); and made a stylistic change.

Cross References. Arkansas Educational Support and Accountability Act, § 6-15-2901 et seq.

Fiscal distress, § 6-20-1901 et seq.

6-21-812. Facilities distress — Student transfers.

(a)(1) Any student attending a public school district classified as being in facilities distress shall automatically be eligible and entitled under the Public School Choice Act of 2015, § 6-18-1901 et seq., to transfer to another school district not in facilities distress during the time period that a district is classified as being in facilities distress.

(2) The student is not required to file a petition to transfer by May 1 but shall meet all other requirements and conditions of the Public School Choice Act of 2015, § 6-18-1901 et seq.

(b) The resident district shall pay the cost of transporting the student from the resident district to the nonresident district.

(c) The nonresident district shall count the student for average daily membership purposes.

History. Acts 2005, No. 1426, § 1; 2013, No. 1227, § 5; 2019, No. 933, § 4.

Amendments. The 2019 amendment

substituted “petition to transfer by May 1” for “petition by June 1” in (a)(2).

6-21-813. Inspections.

(a) The Division of Public School Academic Facilities and Transportation shall conduct random unannounced on-site inspections of all academic facilities to ensure compliance with the school district’s facilities master plan and, if applicable, the school district’s facilities

improvement plan in order to preserve the integrity of and extend the useful life of public school academic facilities and equipment across the state.

(b) The division shall submit reports regarding its on-site inspections of academic facilities to the Commission for Arkansas Public School Academic Facilities and Transportation within thirty (30) days of completion of the on-site inspections.

(c) Based on the division's on-site inspection or notification by the division to the Commission for Arkansas Public School Academic Facilities and Transportation that the changes or additions to a school district's facilities master plan or facilities improvement plan required by the division have not been implemented within the time period prescribed by the division, the Commission for Arkansas Public School Academic Facilities and Transportation shall restrict the use of the necessary funds or otherwise allocate funds from moneys appropriated by the General Assembly.

(d) The division shall work with state agencies and commissions requesting inspection assistance for those areas in which the state agency or commission has primary responsibility to conduct lawfully required inspections.

(e) The division shall work with school districts, state agencies, and state commissions to ensure that:

(1) All lawfully required inspections of academic facilities are performed, including without limitation scheduled, unscheduled, or emergency inspections of or concerning:

- (A) Boilers;
- (B) Electrical systems;
- (C) Heating, ventilation, and air conditioning systems;
- (D) Natural gas piping systems;
- (E) Liquid propane gas systems;
- (F) Plumbing systems, including without limitation reduced pressure zone valves;
- (G) Indoor air quality systems;
- (H) Fire prevention;
- (I) Elevators;
- (J) Occupational safety and health issues;
- (K) Water wells; and
- (L) Asbestos; and

(2) The division receives the same report on the same date that a school district receives a report concerning a lawfully required scheduled or unscheduled inspection or reinspection of an academic facility.

(f) If an inspection or code violation is reported in the course of an inspection or reinspection conducted by a state agency or commission, the division shall work closely with the school district and the appropriate state agency or commission to ensure the violation is remedied within thirty (30) days of the date the inspection or code violation is reported or as soon as reasonably possible thereafter.

History. Acts 2005, No. 1426, § 1;
2009, No. 1475, § 3.

6-21-814. Appeals.

(a) A school district may appeal any determination of the Division of Public School Academic Facilities and Transportation under this subchapter to the Commission for Arkansas Public School Academic Facilities and Transportation in accordance with procedures developed by the commission.

(b) All decisions of the commission resulting from a school district's appeal of a division determination under this subchapter shall be final and shall not be subject to further appeal or request for rehearing to the commission or petition for judicial review under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2005, No. 1426, § 1.

6-21-815. Right of access to unused or underutilized public school facilities — Definition.

(a) As used in this section and in § 6-21-816, "public charter school" means:

(1) An open-enrollment public charter school as defined in § 6-23-103;

(2) An eligible entity as defined in § 6-23-103 that applies to authorize, amend, or renew a charter for an open-enrollment public charter school; and

(3) A legal entity that is affiliated with or acting on behalf of an open-enrollment public charter school or eligible entity.

(b) Annually by March 1 the Division of Public School Academic Facilities and Transportation shall publish a list on its website identifying all unused or underutilized public school facilities.

(c)(1) Except as otherwise provided in this section, a school district shall make unused or underutilized public school facilities available for lease or purchase for no more than fair market value to any public charter school located within the geographical boundaries of the school district.

(2) Once a public school facility or other real property is identified by the division as an unused or underutilized public school facility, a public charter school may give notice of its intent to purchase or lease the public school facility or other real property from the school district no earlier than the later of:

(A) The date the public school facility or other real property is first identified by the division as an unused or underutilized public school facility; or

(B) If the public school facility or other real property has already been designated in the school district's facilities master plan to be reused, renovated, or demolished as part of a specific committed project or planned new construction project, two (2) years from the

date the public school facility or other real property is first identified by the division as an unused or underutilized public school facility.

(3)(A) If the public charter school and school district are unable to agree on terms and execute the sale or lease within sixty (60) days of the notice of intent, the public charter school may petition the Commission for Arkansas Public School Academic Facilities and Transportation for an order directing the school district to lease the public school facility to the public charter school for fair market value.

(B) The lease shall be for a term of between five (5) and thirty (30) years, as determined by the public charter school.

(4) The commission may deny the petition if the school district makes an affirmative showing by a preponderance of the evidence that:

(A) The public school facility, or the property to which the public school facility is attached, will be needed by the school district to accommodate future growth of the school district; or

(B) Use of the public school facility or other real property by a public charter school would have a materially negative impact on the overall educational environment of an educational campus located within five hundred feet (500') of the public school facility or other real property sought to be leased.

(d)(1) Upon the execution of a lease, the public charter school shall be responsible for all direct expenses related to the public school facility, including without limitation:

- (A) Utilities;
- (B) Insurance;
- (C) Maintenance;
- (D) Repairs; and
- (E) Renovation.

(2) The school district shall remain responsible for any bonded debt incurred or mortgage liens that attached to the public school facility or other real property before a sale or lease.

(3) The public charter school shall take no actions that have a materially negative impact on:

- (A) Any bond rights attached to the public school facility or other real property; or
- (B) Any tax-exempt financing related to the public school facility or other real property.

(4) The public charter school shall indemnify the school district for any mortgages, liens, or debt that attach to the public school facility or other real property by the public charter school's action or inaction.

(e) The terms of a lease executed under this section shall provide that the lease shall be cancelled and be of no effect if:

- (1) The public charter school fails to use the public school facility or other real property for direct student instruction or administrative purposes within two (2) years of the effective date of the lease;
- (2) The public charter school closes, has its charter revoked, or has its charter application denied by the authorizer; or

(3) The public charter school initially uses the public school facility or other real property, but then leaves the public school facility or other real property unused for more than one hundred eighty (180) days.

(f)(1) The division may classify a school district that fails to comply with this section as being in academic facilities distress under § 6-21-811.

(2) The charter school authorizer may take action under § 6-23-105 on the charter of a public charter school that fails to comply with this section.

(g) The commission shall promulgate rules to implement this section, including without limitation a standard lease form.

History. Acts 2017, No. 542, § 3.

6-21-816. Sale or lease of public school facilities.

(a)(1) Except as otherwise provided in this section, if a school district determines that any public school facility or other real property is no longer needed for school purposes or is unused or underutilized, the school district may sell or lease the public school facility in accordance with §§ 6-13-103 and 6-13-620 and this subchapter.

(2)(A) Money derived from the sale or lease of property under this section shall be placed in the appropriate school fund established under applicable law, as determined by the school district.

(B) Money derived from the sale or lease may be used for any purpose allowed by law, including without limitation redemption of bonds related to the financing of the public school facility sold or leased.

(3) A school district may not make a covenant that prohibits the sale or lease of a public school facility or other real property to an open-enrollment public charter school that is located within the geographic boundary of the school district.

(b)(1)(A) If a school district decides to sell, lease, or otherwise transfer ownership of an academic facility, an open-enrollment public charter school located within the school district's boundaries shall have a right of first refusal to purchase or lease the facility for fair market value.

(B) If the school district ceases to use a public school facility as an academic facility, the right of first refusal shall continue for two (2) years after the date the public school facility or other real property was last used as an academic facility.

(C) If there is more than one (1) open-enrollment public charter school located within the boundaries of the school district, the right of first refusal shall be available to the open-enrollment public charter school according to a priority list determined by the charter authorizer following a review of the comparative status and educational needs of the open-enrollment public charter schools.

(2)(A) If an open-enrollment public charter school decides to sell or lease a public school facility or other real property purchased by the

public charter school under this section or under § 6-21-815, and the sale or lease is to a third party that is not a public charter school, the school district in which the public school facility or other real property is located shall have a right of first refusal to purchase or lease the public school facility or other real property for fair market value, subject to any mortgage or lien attached to the public school facility or other real property.

(B) The school district may waive its right of first refusal under subdivision (b)(2)(A) of this section if the public school facility or other real property or its revenues are to be pledged by the public charter school as security for debt to fund the purchase or renovation of the public school facility or other real property.

(3) Subject to the priority list under subdivision (b)(1)(C) of this section, nothing in this subchapter shall be construed to delay or limit the authority of a school district to sell, lease, or otherwise transfer a public school facility or other real property to a public charter school on terms agreed to by the school district and public charter school.

(c) If a public school facility or other real property has been identified by the Division of Public School Academic Facilities and Transportation as an unused or underutilized public school facility, the school district may sell or lease the unused or underutilized public school facility to a third party, other than an open-enrollment public charter school, no earlier than the later of:

(1) Two (2) years after the date the public school facility or other real property is identified by the division as an unused or underutilized public school facility, so long as no public charter school has claimed a right of access under § 6-21-815 or a right of first refusal under this section; or

(2) If the unused or underutilized public school facility has been designated in the school district's facilities master plan to be reused, renovated, or demolished as part of a specific committed project or planned new construction project, three (3) years from the date the public school facility or other real property is identified by the division as an unused or underutilized public school facility.

(d)(1) A school district may petition the division for a waiver of subsection (c) of this section as it applies to an unused or underutilized public school facility within the school district.

(2) The petition shall include a statement that the school district believes that a public charter school would not be interested in leasing or purchasing the unused or underutilized public school facility.

(e)(1) If the division receives a petition under subsection (d) of this section, the division, within five (5) days after receiving the petition, shall notify each eligible entity granted a charter under the Arkansas Quality Charter Schools Act of 2013, § 6-23-101 et seq., and each statewide organization representing charter schools in this state of the petition by:

(A) Posting the petition on the division's website; and

(B) Sending a copy of the petition to each eligible entity and statewide organization representing charter schools by email.

(2) Not later than thirty (30) days after the division provides the notification required under subdivision (e)(1) of this section, an eligible entity or a statewide organization representing charter schools may submit to the division an objection in writing to the petition.

(3) An objection shall include:

(A) The name of the open-enrollment public charter school that is interested in leasing or purchasing the unused or underutilized public school facility; and

(B) A time frame, which may not exceed one (1) year from the date of the objection, in which the open-enrollment public charter school intends to begin providing classroom instruction in the unused or underutilized public school facility.

(f)(1) If the division receives an objection that meets the requirements of subdivision (e)(3) of this section, the division shall deny the petition.

(2)(A) If the division does not receive an objection that meets the requirements of subdivision (e)(3) of this section, the division shall grant the petition.

(B) A school district that receives a waiver under this section may sell, lease, or otherwise dispose of the unused or underutilized public school facility in accordance with §§ 6-13-103 and 6-13-620 and this subchapter.

(g)(1) A decision by the division under this section may be appealed to the Commission for Arkansas Public School Academic Facilities and Transportation.

(2) All time frames under this section, including subsection (c) and subdivision (e)(3)(B) of this section, shall be tolled during the pendency of an appeal.

(h)(1) The division may classify a school district that fails to comply with this section as being in academic facilities distress under § 6-21-811.

(2) The authorizer may take action under § 6-23-105 on the charter of a public charter school that fails to comply with this section.

(i) The commission may promulgate rules to implement this section.

History. Acts 2017, No. 542, § 3; 2021, No. 126, § 7.

Amendments. The 2021 amendment rewrote (e)(1) and (e)(2).

6-21-817. Public School Americans with Disabilities Act Compliance Committee.

(a) There is created the Public School Americans with Disabilities Act Compliance Committee.

(b) The committee shall be composed of six (6) members as follows:

(1) One (1) member from the Building Authority Division;

(2) One (1) member from the Division of Public School Academic Facilities and Transportation;

(3) One (1) member from the State Fire Marshal Office of the Division of Arkansas State Police;

(4) One (1) member from the Division of Elementary and Secondary Education;

(5) One (1) member from the Arkansas Association of Educational Administrators; and

(6) One (1) member from the Arkansas Public School Resource Center, Inc.

(c) By February 1, 2024, all public school districts shall include the following in the facilities master plan as required under § 6-21-806:

(1)(A) An assessment of all public school facilities with respect to compliance with the Americans with Disabilities Act of 1990, Pub. L. No. 101-336.

(B) The assessment of public school facilities required under subdivision (c)(1)(A) of this section shall include an emphasis on public school buildings constructed before 2004.

(C) A public school district may appoint an individual or entity to conduct the assessment required under subdivision (c)(1)(A) of this section; and

(2) A transition plan establishing the steps necessary to complete changes to public school facilities in order to ensure compliance with the Americans with Disabilities Act of 1990, Pub. L. No. 101-336.

(d) By February 1, 2024, each open-enrollment public charter school shall submit:

(1)(A) An assessment of all open-enrollment public charter school facilities with respect to compliance with the Americans with Disabilities Act of 1990, Pub. L. No. 101-336.

(B) The assessment of open-enrollment public charter school facilities required under this subdivision (d)(1) shall include an emphasis on open-enrollment public charter school buildings constructed before 2004.

(C) An open-enrollment public charter school may appoint an individual or entity to conduct the assessment required under this subdivision (d)(1); and

(2) A transition plan establishing the steps necessary to complete changes to open-enrollment public charter school facilities in order to ensure compliance with the Americans with Disabilities Act of 1990, Pub. L. No. 101-336.

(e) The duties of the committee include the following without limitation:

(1) Establishing guidelines to assist public school districts and open-enrollment public charter schools in the process of conducting assessments of public school buildings as required under subdivision (c)(1)(A) of this section; and

(2)(A) Providing an online professional learning course for public school districts and open-enrollment public charter schools to use in the process of conducting assessments of public school buildings as required under subdivision (c)(1)(A) of this section.

(B) The online professional learning course under subdivision (e)(2)(A) of this section shall be provided by May 1, 2022.

History. Acts 2021, No. 987, § 1.

U.S. Code. The Americans with Disabilities Act of 1990, Pub. L. No. 101-336,

referred to in this section, is codified primarily as 42 U.S.C. § 12101 et seq.

CHAPTER 22

ARKANSAS REGISTERED VOLUNTEERS PROGRAM ACT

SECTION.

6-22-101. Legislative findings and intent.

6-22-102. Title.

6-22-103. Definitions.

6-22-104. Optional program — Requirements.

SECTION.

6-22-105. Registered volunteers — Requirements.

6-22-106. Sovereign immunity.

6-22-107. Applicability.

6-22-108. Construction.

Effective Dates. Acts 1997, No. 1012, § 12: Apr. 2, 1997. Emergency clause provided: "It is found and determined by the General Assembly that the immediate passage of this Act is necessary for the establishment of a registered volunteers program whereby local school districts can utilize the services of qualified volunteers in certain extracurricular and interscholastic activities and that any delay will cause irreparable harm to those students who will be unable to participate in extracurricular and interscholastic activities during the current school year and each year thereafter because school districts cannot afford to pay certified teachers to sponsor the activities or there are no certified teachers available to act as sponsors. Therefore, an emergency is declared to exist and this Act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2017, No. 428, § 2: Mar. 9, 2017. Emergency clause provided: "It is found

and determined by the General Assembly of the State of Arkansas that there is a shortage of registered volunteers available for the public schools of this state; that under current, law members of the board of directors of a public school district and their spouses are prohibited from volunteering in the public school district in which the members of the board of directors serve; that members of the board of directors of a public school district and their spouses are members of the community of the public school district and have an interest in serving the public school district in every way possible; and that this act is immediately necessary so that public school districts can benefit from the valuable service members of the board of directors of a public school district and their spouses can bring as registered volunteers. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-22-101. Legislative findings and intent.

(a) The General Assembly recognizes that the effective use of volunteers in the public schools can provide greater opportunities for students to participate in school-sponsored extracurricular and interscholastic activities, which many local school districts otherwise could not provide due to funding limitations and lack of availability of licensed personnel.

(b) The General Assembly further recognizes that volunteers in the public schools should be properly screened and have effective training before they have significant unsupervised contact with students.

(c) The General Assembly intends by this chapter to provide for the establishment of a registered volunteers program in order that local school districts, students, and staff may have the advantages of services from duly qualified volunteers who, in turn, will have more incentive to offer their time and talents for the benefit of Arkansas school children.

History. Acts 1997, No. 1012, § 1; 2013, No. 1138, § 58.

6-22-102. Title.

This chapter may be cited as the “Arkansas Registered Volunteers Program Act”.

History. Acts 1997, No. 1012, § 2.

6-22-103. Definitions.

As used in this chapter:

(1) “Extracurricular activity” means any intraschool activity that is outside the regular curriculum, including, but not limited to, sports and special interest clubs or groups;

(2) “Interscholastic activity” means any interschool activity that is outside the regular curriculum, including, but not limited to, sports and special interest clubs or groups that are subject to rules of the Arkansas Activities Association;

(3) “Registered volunteer” means any volunteer who, subject to Arkansas Activities Association rules and rules set by the local school district, is given written authorization by the school district to lead extracurricular activities or to assist a staff member who is a licensed employee of the school district in extracurricular activities or interscholastic activities; and

(4) “Volunteer” means any person who, of his or her own free will, provides services without any financial gain to any local school district.

History. Acts 1997, No. 1012, § 3; 2013, No. 1138, § 59; 2019, No. 315, § 307. substituted “rules” for “regulations” in (2); and substituted “rules and rules” for “regulations and rules” in (3).

Amendments. The 2019 amendment

6-22-104. Optional program — Requirements.

(a) Each local school district may develop a registered volunteers program and may accept the services of volunteers who qualify under the program to assist in extracurricular and interscholastic activities that are sponsored by the district.

(b) A school district that develops a registered volunteers program as set forth in this chapter shall:

(1) Take actions as are necessary to develop meaningful opportunities for qualified volunteers to assist in extracurricular activities and interscholastic activities;

(2) Take actions as are necessary to ensure that qualified volunteers have written job descriptions that define their duties and responsibilities;

(3) Provide for the recognition of qualified volunteers who have offered exceptional service to the school district; and

(4) Provide support for the volunteer program established under the State and Local Government Volunteers Act, § 21-13-101 et seq.

(c) A registered volunteer in an athletic program for grades seven through twelve (7-12) shall meet the requirements adopted by the Arkansas Activities Association through the Coach Education Program of the National Federation of State High School Associations.

History. Acts 1997, No. 1012, § 4;
2015, No. 788, § 1.

6-22-105. Registered volunteers — Requirements.

(a) The superintendent of any school district that develops a registered volunteers program under this chapter shall require all potential registered volunteers to meet the following qualifications before the volunteers have any significant unsupervised contact with students:

(1) To authorize release of the results of a statewide and nationwide criminal records check by the Identification Bureau of the Division of Arkansas State Police that conforms to the applicable federal standards, which includes the taking of the potential volunteer's fingerprints, and which is dated not more than ninety (90) days before the date of its presentation; and

(2) To complete a minimum of six (6) hours of training conducted under the direction of the school district for nonathletic extracurricular or nonathletic interscholastic activities and a minimum of twelve (12) hours of training conducted under the direction of the school district for athletic extracurricular activities or under the direction of the Arkansas Activities Association for athletic interscholastic activities.

(b) Volunteers and registered volunteers shall be at least twenty-two (22) years of age.

(c)(1) A volunteer or registered volunteer may not be a member of the board of directors of the school district or the spouse of a member of the board of directors of the school district in which he or she seeks to

volunteer unless approved by the board of directors of the school district.

(2) The approval granted under subdivision (c)(1) of this section shall be valid for a period of one (1) calendar year.

(d) A volunteer or a registered volunteer shall not receive payment for services rendered under this chapter.

History. Acts 1997, No. 1012, § 5; 2013, No. 231, § 2; 2015, No. 788, § 2; 2017, No. 428, § 1.

A.C.R.C. Notes. The Criminal History for Volunteers Act, § 12-12-1601 et seq., may apply to this section.

Amendments. The 2017 amendment redesignated former (c) as (c)(1); added “unless approved by the board of directors of the school district” in (c)(1); and added (c)(2).

6-22-106. Sovereign immunity.

Qualified volunteers in a registered volunteers program shall enjoy the protection of the state’s sovereign immunity to the same extent as the local school district’s employees.

History. Acts 1997, No. 1012, § 6.

6-22-107. Applicability.

(a) The provisions of this chapter shall apply to those schools and institutions that voluntarily join the Arkansas Activities Association.

(b) A volunteer or registered volunteer may act as a head coach in all varsity junior high sports and senior high sports administered by the Arkansas Activities Association except in the following sports:

- (1) Football;
- (2) Basketball; and
- (3) Track and field.

History. Acts 1997, No. 1012, § 8; 2015, No. 788, § 3.

6-22-108. Construction.

Except as provided specifically under this chapter, none of the provisions of this chapter prohibits a school district from utilizing the services of the volunteers who operate under the supervision of licensed school personnel.

History. Acts 1997, No. 1012, § 8; 2013, No. 1138, § 60; 2015, No. 788, § 4.

CHAPTER 23

ARKANSAS QUALITY CHARTER SCHOOLS ACT OF
2013

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. CONVERSION PUBLIC CHARTER SCHOOLS.
3. OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS.
4. OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS — OPERATION.
5. OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS — FUNDING.
6. LIMITED PUBLIC CHARTER SCHOOLS. [REPEALED.]
7. PUBLIC CHARTER SCHOOL AUTHORIZER.
8. OPEN-ENROLLMENT PUBLIC CHARTER SCHOOL CAPITAL GRANT PROGRAM.
9. OPEN-ENROLLMENT PUBLIC CHARTER SCHOOL FACILITIES LOAN FUND.
10. ADULT EDUCATION CHARTER SCHOOL.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 6-23-101. Title.
- 6-23-102. Legislative intent.
- 6-23-103. Definitions.
- 6-23-104. Charter form for public charter schools — Requirements — Revision.
- 6-23-105. Basis and procedure for public charter school probation or

SECTION.

- charter modification, revocation, or denial of renewal.
- 6-23-106. Impact on school desegregation efforts.
- 6-23-107. Reporting requirements.
- 6-23-108. School for Agricultural Studies.
- 6-23-109. Community schools.

Effective Dates. Acts 2003 (2nd Ex. Sess.), No. 22, § 3: Dec. 31, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in Lake View District No. 25 v. Huckabee, 351 Ark 31 (2002) declared the existing system of education to be unconstitutional because it is both inequitable and inadequate; that this act assists the Arkansas School for Mathematics, Sciences, and the Arts to be eligible for federal grants, and allows the school the flexibility to become a charter school; and that this act is immediately necessary to assist the Arkansas School for Mathematics, Sciences, and the Arts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time

during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2011, No. 993, § 18: Apr. 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the state’s constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public charter schools; and that this act is immediately necessary so that the affected public charter schools will receive the amount of funding provided under this act for the current school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emer-

gency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

Acts 2021, No. 744, § 6: Apr. 19, 2021. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the coronavirus 2019 (COVID-19) pandemic has resulted in substantial disruption to the educational system in the state’s kindergarten through grade twelve (K-12) public schools and open-enrollment public charter schools; that amendments to the law as provided in this act are needed to address challenges faced by Arkansas students in succeeding in school and in life; and that this act is immediately necessary to maintain the orderly operation of public schools and open-enrollment public charter schools so that students in this state continue to receive an adequate education. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-23-101. Title.

This chapter shall be known and cited as the “Arkansas Quality Charter Schools Act of 2013”.

History. Acts 1999, No. 890, § 1; 2013, No. 509, § 1.

6-23-102. Legislative intent.

It is the intent of the General Assembly, by this chapter, to provide opportunities for teachers, parents, pupils, and community members to establish and maintain public schools that operate independently from the existing structure of local school districts as a method to accomplish the following:

- (1) Improve student learning;
- (2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as low-achieving;
- (3) Encourage the use of different and innovative teaching methods;
- (4) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;
- (5) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system; and
- (6) Hold the schools established under this chapter accountable for meeting measurable student achievement standards.

History. Acts 1999, No. 890, § 2.

6-23-103. Definitions.

As used in this chapter:

- (1) "Adult education charter school" means a charter school for individuals at least nineteen (19) years of age that offers a high school diploma program and an industry certification program simultaneously to students;
- (2) "Application" means the proposal for obtaining conversion public charter school status or open-enrollment public charter school status;
- (3) "Authorizer" means an entity that authorizes a charter, which may be either the:
 - (A) Division of Elementary and Secondary Education; or
 - (B) State Board of Education acting under § 6-23-703;
- (4) "Charter" means a performance-based contract for an initial five-year period between the authorizer and an approved applicant for public charter school status that exempts the public charter school from state and local rules, regulations, policies, and procedures specified in the contract and from the provisions of this title specified in the contract;
- (5) "Conversion public charter school" means a public school that has converted to operating under the terms of a charter approved by the local school district board of directors and the authorizer;
- (6) "Eligible entity" means:
 - (A) A public institution of higher education;
 - (B) A private nonsectarian institution of higher education;
 - (C) A governmental entity; or
 - (D) An organization that:

- (i) Is nonsectarian in its program, admissions policies, employment practices, and operations; and
- (ii) Has applied for tax-exempt status under the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3);
- (7) “Founding member” means any individual who is either:
 - (A) A member or an employee of the eligible entity applying for the initial charter for an open-enrollment public charter school; or
 - (B) A member of the initial governing nonadvisory board of the open-enrollment public charter school;
- (8) “Local school board” means a board of directors exercising the control and management of a public school district;
- (9)(A) “Open-enrollment public charter school” means a public school that:
 - (i) Is operating under the terms of a charter granted by the authorizer on the application of an eligible entity;
 - (ii) May draw its students from any public school district in this state; and
 - (iii) Is a local educational agency under the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., as it existed on April 10, 2009.
- (B) “Open-enrollment public charter school” also possesses the same meaning as given the term “charter school” in the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7221i, as it existed on April 10, 2009;
- (10) “Parent” means any parent, legal guardian, or other person having custody or charge of a school-age child;
- (11) “Public charter school” means a conversion public charter school or an open-enrollment public charter school; and
- (12) “Public school” means a school that is part of a public school district under the control and management of a local school district board of directors.

History. Acts 1999, No. 890, § 3; 2003 (2nd Ex. Sess.), No. 22, § 2; 2005, No. 2005, § 2; 2007, No. 736, § 1; 2009, No. 1469, § 18; 2013, No. 509, § 2; 2015, No. 1200, § 1; 2017, No. 933, §§ 1-3; 2019, No. 910, § 1733.

Amendments. The 2017 amendment deleted “or limited public charter school

status” at the end of (2); repealed former (8); and deleted “or a limited public charter school” at the end of (13) [now (12)].

The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” in (3)(A).

6-23-104. Charter form for public charter schools — Requirements — Revision.

- (a) A charter for a public charter school shall:
 - (1) Be in the form of a written contract signed by the Commissioner of Elementary and Secondary Education and the chief operating officer of the public charter school;
 - (2) Satisfy the requirements of this chapter; and

(3) Ensure that the information required under § 6-23-404 is consistent with the information provided in the application and any modification that the authorizer may require.

(b) Any revision or amendment of the charter for a public charter school may be made only with the approval of the authorizer.

(c) An open-enrollment public charter school shall post the most recent version of the written contract on the website of the open-enrollment public charter school by August 1 each year.

History. Acts 1999, No. 890, § 10; by No. 544 substituted “Commissioner of
2007, No. 736, § 2; 2009, No. 1469, § 19; Elementary and Secondary Education” for
2013, No. 509, § 2; 2021, No. 544, § 52; “Commissioner of Education” in (a)(1).
2021, No. 774, § 7. The 2021 amendment by No. 774 added

Amendments. The 2021 amendment (c).

6-23-105. Basis and procedure for public charter school probation or charter modification, revocation, or denial of renewal.

(a)(1) The authorizer may place a public charter school on probation or may modify, revoke, transfer, assign, or deny renewal of its charter if the authorizer determines that the persons operating the public charter school:

(A) Committed a material violation of the charter, including failure to satisfy accountability provisions prescribed by the charter;

(B) Failed to satisfy generally accepted accounting standards of fiscal management;

(C) Failed to comply with this chapter or other applicable law or rule; or

(D) Failed to meet academic or fiscal performance criteria deemed appropriate and relevant for the public charter school by the authorizer.

(2) The authorizer may allow the voluntary assignment of a public charter school upon petition by the public charter school to the authorizer.

(3)(A) If the authorizer transfers or assigns the charter of a public charter school to an eligible entity, the authorizer shall not hold the applicant responsible for any activity that occurred before the transfer or assignment, which includes without limitation any disciplinary action taken by the authorizer.

(B) After the authorizer transfers or assigns a charter to an eligible entity, the authorizer shall:

(i) Issue a new local education agency number as required under § 25-6-107; and

(ii) Not issue an annual report as required under § 6-15-2101 until the eligible entity to which the charter was transferred has completed at least one (1) school year.

(b) Any action the authorizer may take under this section shall be based on the best interests of the public charter school’s students, the

severity of the violation, and any previous violation the public charter school may have committed.

(c) The authorizer shall adopt a procedure to be used for placing a public charter school on probation or modifying, revoking, transferring, assigning, or denying renewal of the public charter school's charter.

(d)(1) The procedure adopted under this section shall provide an opportunity for a hearing to the persons operating the public charter school.

(2)(A) The hearing shall be held at the Division of Elementary and Secondary Education.

(B) The authorizer shall provide sufficient written notice of the time and location of the hearing.

(3) There is no further right of appeal beyond the determination of the authorizer.

(4) The Arkansas Administrative Procedure Act, § 25-15-201 et seq., shall not apply to a hearing concerning a public charter school.

(e)(1)(A) Immediately upon the revocation, transfer, or assignment of an open-enrollment charter by the authorizer, an open-enrollment public charter school shall:

(i) Provide to the division a detailed accounting of all accounts payable due from the state funds held by the open-enrollment public charter school and any additional information or records requested by the division concerning the disbursement of the state funds;

(ii) Provide the division with a comprehensive list of all banking information and accounts in which the open-enrollment public charter school holds state or federal funds;

(iii) Receive prior approval from the division for an expenditure over five hundred dollars (\$500); and

(iv) Work in coordination with the division to draft a charter closure plan.

(B)(i) Immediately upon the State Board of Education's affirmation of a revocation, assignment, or transfer, the open-enrollment public charter school shall transfer all state and federal funds held by the open-enrollment public charter school to the division.

(ii) The division shall hold funds received under subdivision (e)(1)(B)(i) of this section in receivership in a separate fund and shall expend the funds only with prior approval of the Commissioner of Elementary and Secondary Education.

(2)(A) The division shall establish a procedure for a claimant to file a claim for disbursement from the state funds.

(B) The determination of the division concerning the disbursement of the state funds is final and may not be appealed.

(3) If funds remain in receivership for which no legitimate, documented claim has been made to the division within one (1) calendar year after the revocation, transfer, or assignment, the remaining funds shall be transferred to the:

(A) Entity that received the public charter school under a transfer or assignment if the public charter school was transferred or assigned; or

(B) Public School Fund in all other instances.

(4) The state board may promulgate rules to implement this subsection.

History. Acts 1999, No. 890, § 11; 2005, No. 2005, § 3; 2007, No. 736, § 3; 2009, No. 1469, § 23; 2013, No. 509, § 2; 2017, No. 933, § 4; 2019, No. 315, § 308; 2019, No. 757, § 54; 2019, No. 761, §§ 1-3; 2019, No. 910, §§ 1734, 1735; 2021, No. 774, §§ 8-10.

Amendments. The 2017 amendment added (e).

The 2019 amendment by No. 315 substituted “rule” for “regulation” in (a)(3) [now (a)(1)(C)].

The 2019 amendment by No. 757 substituted “an open-enrollment charter by” for “a charter by” in the introductory language of (e)(1)(A).

The 2019 amendment by No. 761 redesignated the former introductory language of (a) as (a)(1), and former (a)(1) through (a)(4) as (a)(1)(A) through (a)(1)(D); inserted “transfer, assign” in (a)(1); added (a)(2) and (a)(3); inserted “transferring,

assigning” in (c); and inserted “transfer, or assignment” in the introductory language of (e)(1)(A) and in (e)(1)(C).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (d)(2)(A); substituted “division” for “department” throughout (e); and substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (e)(1)(B).

The 2021 amendment deleted “charter” preceding “authorizer” twice in (a)(2); deleted “under subdivision (a)(1) of this section” preceding “the authorizer shall” in (a)(3)(A) and (a)(3)(B); inserted “public charter” following “denying renewal of the” in (c); rewrote (e)(1); in the introductory language of (e)(3), inserted “transfer, or assignment” and deleted “Public School Fund” following “shall be transferred to the”; and added (e)(3)(A) and (e)(3)(B).

6-23-106. Impact on school desegregation efforts.

(a) The applicants for a public charter school, the local school district board of directors for the district in which a proposed public charter school would be located, and the authorizer shall carefully review the potential impact of an application for a public charter school on the efforts of a public school district or public school districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools.

(b) The authorizer shall attempt to measure the likely impact of a proposed public charter school on the efforts of public school districts to achieve and maintain a unitary system.

(c) The authorizer shall not approve any public charter school under this chapter or any other act or any combination of acts that hampers, delays, or in any manner negatively affects the desegregation efforts of a public school district or public school districts in this state.

History. Acts 1999, No. 890, § 15; 2005, No. 2005, § 4; 2007, No. 736, § 4; 2013, No. 509, § 2.

6-23-107. Reporting requirements.

(a) Within ten (10) calendar days of the close of the first quarter of each school year, a public charter school shall submit a written report

to the Division of Elementary and Secondary Education that contains the following information for the current school year:

(1) The number of applications for enrollment received;
 (2) The number of applicants with a disability identified under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.;
 and

(3) The number of applications for enrollment the public charter school denied and an explanation of the reason for each denial.

(b) Within ten (10) calendar days of the close of the fourth quarter of each school year, a public charter school shall submit a written report to the division that contains the following information for the current school year:

(1) The number of students in each of the following categories:

(A) Students who dropped out of the public charter school during the school year;

(B) Students who were expelled during the school year by the public charter school; and

(C) Students who were enrolled in the public charter school but for a reason other than those cited in subdivisions (b)(1)(A) and (B) of this section did not complete the school year at the public charter school; and

(2)(A) For all students enrolled in the public charter school, the scores for assessments required under the Arkansas Educational Support and Accountability Act, § 6-15-2901 et seq.

(B) If there is any discrepancy in the number of students for whom scores are reported under this subdivision (b)(2) and the number of students enrolled at the beginning of the school year, the public charter school shall explain in the report the reason for the discrepancy.

(c) The division shall not exempt a public charter school from the reporting required under this section.

(d) The division shall publish a copy of each report on the division's website.

(e) If a public charter school fails to comply with this section, the division shall note the failure in the annual evaluation of the public charter school.

History. Acts 2011, No. 993, § 3; 2017, No. 936, § 54; 2019, No. 910, § 1736.

Amendments. The 2017 amendment substituted "Arkansas Educational Support and Accountability Act, § 6-15-2901 et seq." for "Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401 et seq., including without limitation benchmark assess-

ments and end-of-course assessments" in (b)(2)(A).

The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of Education" in the introductory language of (a); and substituted "division" for "department" throughout the section.

6-23-108. School for Agricultural Studies.

(a) The authorizer may designate a public charter school as a “School for Agricultural Studies”.

(b) To be designated as a “School for Agricultural Studies”, the applicant must include in its original application or charter amendment request:

- (1) A request to be designated as a “School for Agricultural Studies”;
- (2) The school’s agricultural studies plan, which shall include without limitation:

- (A) The type of agricultural industry in the school’s local region;

- (B) How the school will address the needs of that industry and the state’s agricultural-based economy; and

- (C) Anticipated support from the agricultural industry; and

- (3) A written review of the agricultural studies plan from the Division of Career and Technical Education.

(c)(1) A School for Agricultural Studies may petition the State Board of Education for creation of a new school district by detachment under § 6-13-1501 et seq. if the School for Agricultural Studies meets the conditions of this subsection.

(2) To be eligible to petition for detachment, the school shall:

- (A) Complete three (3) academic years serving students as a School for Agricultural Studies;

- (B) Not currently be classified in need of Level 5 — Intensive support, fiscal distress, or facilities distress;

- (C) Not be in probationary status for violation of the Standards for Accreditation of Arkansas Public Schools and School Districts; and

- (D) Show evidence that the school is meeting its stated goals.

(3) A School for Agricultural Studies:

- (A) Is exempt from the minimum student enrollment and square mileage requirements under § 6-13-1501(a)(2) and § 6-13-1502; and

- (B) Shall not be approved to create a new school district by detachment with fewer than three hundred fifty (350) students as determined by a feasibility study included with the petition.

(d)(1) Nothing in this section prohibits a public charter school from offering agricultural programming without the designation as a “School for Agricultural Studies”.

(2) A public charter school shall not refer to itself as a “School for Agricultural Studies” unless it is designated as a “School for Agricultural Studies” under this section.

History. Acts 2017, No. 742, § 2; 2019, No. 757, § 55; 2019, No. 910, § 1737.

Amendments. The 2019 amendment by No. 757 substituted “in need of Level 5 – Intensive support” for “in academic distress” in (c)(2)(B).

The 2019 amendment by No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education” in (b)(3).

6-23-109. Community schools.

- (a) The authorizer may designate a public charter school as a community school, as defined by § 6-15-3002.
- (b) To be designated as a community school, the applicant shall include in its original application or charter amendment request:

(1) A request to be designated as a community school; and

(2) A community school plan, as defined by § 6-15-3002, which shall include without limitation an initial plan for serving student needs.

History. Acts 2021, No. 744, § 3.

SUBCHAPTER 2 — CONVERSION PUBLIC CHARTER SCHOOLS

SECTION.	SECTION.
6-23-201. Application for conversion public charter school status.	sion public charter school applicants.
6-23-202. Authorization for conversion public charter school status.	6-23-204. Charter renewal.
6-23-203. Notice of disapproval — Technical assistance to conver-	6-23-205. Teacher hires when charter revoked.
	6-23-206. Rules.
	6-23-207. [Repealed.]

Effective Dates. Acts 2001, No. 1311, § 10: Apr. 5, 2001. Emergency clause provided: “It is found and determined by the General Assembly that the current funding requirements for charter schools need immediate revisions; that it is necessary to have the funding before the beginning of the fiscal year; that the notice requirements and other changes could cause confusions and delay for citizens petitioning for a charter school during the third application cycle if there is delay enacting legislation; and that proper notice of petition requirements and funding changes are immediately necessary. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General As-

sembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

Acts 2021, No. 744, § 6: Apr. 19, 2021. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the coronavirus 2019 (COVID-19) pandemic has resulted in substantial disruption to the educational system in the state’s kindergarten through grade twelve (K-12) public schools and open-enrollment public charter schools; that amendments to the law

as provided in this act are needed to address challenges faced by Arkansas students in succeeding in school and in life; and that this act is immediately necessary to maintain the orderly operation of public schools and open-enrollment public charter schools so that students in this state continue to receive an adequate education. Therefore, an emergency is declared to exist, and this act being immediately

necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-23-201. Application for conversion public charter school status.

(a)(1) Any public school district may apply to the authorizer for conversion public charter school status for a public school in the public school district in accordance with a schedule approved by the authorizer.

(2) A public school district's application for conversion public charter school status for the public school may include, but shall not be limited to, the following purposes:

(A) Adopting research-based school or instructional designs, or both, that focus on improving student and school performance, which may include without limitation the implementation of a community school plan, as defined by § 6-15-3002;

(B) Addressing school improvement status resulting from sanctions listed in § 6-15-207(c)(8) and § 6-15-429(a) and (b) [repealed]; or

(C) Partnering with other public school districts or public schools to address students' needs in a geographical location or multiple locations.

(b) Such application shall:

(1)(A) Describe the results of a public hearing called by the local school district board of directors for the purpose of assessing support of an application for conversion public charter school status.

(B) Notice of the public hearing shall be:

(i) Distributed to the community, licensed personnel, and the parents of all students enrolled at the public school for which the public school district initiated the application; and

(ii) Published in a newspaper having general circulation in the public school district at least three (3) weeks before the date of the meeting;

(2) Describe a plan for school improvement that addresses how the conversion public charter school will improve student learning and meet the state education goals;

(3) Outline proposed performance criteria that will be used during the initial five-year period of the charter to measure the progress of the conversion public charter school in improving student learning and meeting or exceeding the state education goals;

(4) Describe how the licensed employees and parents of students to be enrolled in the conversion public charter school will be involved in developing and implementing the school improvement plan and identifying performance criteria;

(5) Describe how the concerns of licensed employees and parents of students enrolled in the conversion public charter school will be solicited and addressed in evaluating the effectiveness of the improvement plan; and

(6) List the specific provisions of this title and the specific rules promulgated by the State Board of Education from which the conversion public charter school will be exempt.

(c)(1) A licensed teacher employed by a public school in the school year immediately preceding the effective date of a charter for a public school conversion within that public school district may not be transferred to or be employed by the conversion public charter school over the licensed teacher's objection, nor shall that objection be used as a basis to deny continuing employment within the public school district in another public school at a similar grade level.

(2) If the transfer of a teacher within the public school district is not possible because only one (1) public school exists for that teacher's licensure level, then the local school district board of directors shall call for a vote of the licensed teachers in the proposed conversion public charter school site and proceed, at the option of the local school board of directors, with the conversion public charter school application if a majority of the licensed teachers approve the proposal.

History. Acts 1999, No. 890, § 4; 2001, No. 1311, § 1; 2005, No. 2005, § 5; 2007, No. 736, § 5; 2013, No. 509, § 3; 2013, No. 1138, §§ 61, 62; 2019, No. 315, § 309; 2021, No. 744, § 4.

deleted "and regulations" following "rules" in (b)(6).

The 2021 amendment added "which may include without limitation the implementation of a community school plan, as defined by § 6-15-3002" in (a)(2)(A).

Amendments. The 2019 amendment

6-23-202. Authorization for conversion public charter school status.

As requested by the conversion public charter school applicant, the authorizer shall review the application for conversion public charter school status and may approve any application that:

(1) Provides a plan for improvement at the school level for improving student learning and for meeting or exceeding the state education goals;

(2) Includes a set of performance-based objectives and student achievement objectives for the term of the charter and the means for measuring those objectives on at least a yearly basis;

(3) Includes a proposal to directly and substantially involve the parents of students to be enrolled in the conversion public charter school, as well as the licensed employees and the broader community, in the process of carrying out the terms of the charter; and

(4) Includes an agreement to provide a yearly report to parents, the community, the local school district board of directors, and the authorizer that indicates the progress made by the conversion public charter school in meeting the performance objectives during the previous year.

History. Acts 1999, No. 890, § 4; 2007, No. 736, § 6; 2013, No. 509, § 4; 2013, No. 1138, § 63.

6-23-203. Notice of disapproval — Technical assistance to conversion public charter school applicants.

(a) If the authorizer disapproves an application for a conversion public charter school, the authorizer shall notify the applicant in writing of the reasons for the disapproval.

(b) The Division of Elementary and Secondary Education may provide technical assistance to the conversion public charter school applicants in the:

- (1) Creation of its application; and
- (2) Modification of its application as directed by the authorizer.

History. Acts 1999, No. 890, § 4; 2007, No. 736, § 7; 2013, No. 509, § 4; 2015, No. 846, § 29; 2019, No. 910, § 1738.

substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b).

Amendments. The 2019 amendment

6-23-204. Charter renewal.

The authorizer may renew charters of conversion public charter schools on a one-year or multiyear basis, not to exceed five (5) years, after the initial five-year period if the renewal is approved by the local school district board of directors.

History. Acts 1999, No. 890, § 4; 2005, No. 2005, § 6; 2007, No. 736, § 8; 2013, No. 509, § 4.

6-23-205. Teacher hires when charter revoked.

If a licensed teacher employed by a public school district in the school year immediately preceding the effective date of the charter is employed by a conversion public charter school and the charter is revoked, the licensed teacher will receive a priority in hiring for the first available position for which the licensed teacher is qualified in the public school district where the licensed teacher was formerly employed.

History. Acts 1999, No. 890, § 4; 2007, No. 736, § 9; 2013, No. 1138, § 64.

6-23-206. Rules.

The State Board of Education is authorized and directed to establish rules for conversion public charter schools.

History. Acts 1999, No. 890, § 4; 2007, No. 736, § 10; 2019, No. 315, § 310.

Amendments. The 2019 amendment

deleted “and regulations” following “rules” in the section heading and in the section.

6-23-207. [Repealed.]

A.C.R.C. Notes. The repeal of this section by Acts 2007, No. 1573, § 62, superseded the amendment of this section by Acts 2007, No. 736, § 11. The amendment by Acts 2007, No. 736, § 11, clarified references to programs and committees in

the section.

Publisher’s Notes. This section, concerning the State Board of Education status report, was repealed by Acts 2007, No. 1573, § 62. The section was derived from Acts 1999, No. 890, § 4.

SUBCHAPTER 3 — OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS

- SECTION.
- 6-23-301. Application forms and procedures for open-enrollment public charter schools.
 - 6-23-302. Application for open-enrollment public charter school.
 - 6-23-303. Authorization for an open-enrollment public charter school.
 - 6-23-304. Requirements — Preference for certain districts.

- SECTION.
- 6-23-305. Notice of disapproval — Technical assistance to applicant for open-enrollment public charter school.
 - 6-23-306. Contents of open-enrollment public charters.
 - 6-23-307. Renewal of charter.
 - 6-23-308. Priority hiring for teachers.
 - 6-23-309. Rules.
 - 6-23-310. Status report.

Effective Dates. Acts 2001, No. 463, § 2; Feb. 28, 2001. Emergency clause provided: “It is found and determined by the General Assembly that current charter school enrollment requirements do not allow charter schools located in districts under court ordered desegregation to select students in a manner necessary for compliance with the court order; that desegregation efforts could be hampered; and this act is immediately necessary to facilitate compliance. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the

veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 2001, No. 1311, § 10; Apr. 5, 2001. Emergency clause provided: “It is found and determined by the General Assembly that the current funding requirements for charter schools need immediate revisions; that it is necessary to have the funding before the beginning of the fiscal year; that the notice requirements and other changes could cause confusions and delay for citizens petitioning for a charter school during the third application cycle if there is delay enacting legislation; and that proper notice of petition requirements and funding changes are immediately necessary. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the

Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 993, § 18: Apr. 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public charter schools; and that this act is immediately necessary so that the affected public charter schools will receive the amount of funding provided under this act for the current school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Gov-

ernor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

Acts 2021, No. 744, § 6: Apr. 19, 2021. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the coronavirus 2019 (COVID-19) pandemic has resulted in substantial disruption to the educational system in the state's kindergarten through grade twelve (K-12) public schools and open-enrollment public charter schools; that amendments to the law as provided in this act are needed to address challenges faced by Arkansas students in succeeding in school and in life; and that this act is immediately necessary to maintain the orderly operation of public schools and open-enrollment public charter schools so that students in this state continue to receive an adequate education. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-23-301. Application forms and procedures for open-enrollment public charter schools.

(a) The authorizer shall adopt:

(1) An application form, a schedule, and a procedure that must be used to apply for a charter for an open-enrollment public charter school; and

(2) Criteria to use in selecting a program for which a charter may be granted.

(b) The application form must provide space for including all information required under this chapter to be contained in the charter.

History. Acts 1999, No. 890, § 8; 2007, No. 736, § 12; 2011, No. 993, § 4; 2013, No. 509, § 5.

6-23-302. Application for open-enrollment public charter school.

(a) Pursuant to the provisions of this chapter, an eligible entity may apply to the authorizer to grant a charter for an open-enrollment public charter school to operate in a facility of a commercial or nonprofit entity or a public school district.

(b) The application to the authorizer for an open-enrollment public charter school shall be made in accordance with a schedule approved by the authorizer.

(c) The application shall:

(1)(A) Describe the results of a public hearing called by the applicant for the purpose of assessing support for an application for an open-enrollment public charter school.

(B)(i) Notice of the public hearing shall be published one (1) time a week for three (3) consecutive weeks in a newspaper having general circulation in the public school district in which the open-enrollment public charter school is likely to be located.

(ii) The last publication of notice shall be no less than seven (7) days before the public meeting.

(iii) The notice shall not be published in the classified or legal notice section of the newspaper.

(C)(i) Within seven (7) calendar days following the first publication of notice required under subdivision (c)(1)(B) of this section, letters announcing the public hearing shall be sent to the superintendent of each of the public school districts from which the open-enrollment public charter school is likely to draw students for the purpose of enrollment and the superintendent of any public school district that is contiguous to the public school district in which the open-enrollment public charter school will be located.

(ii) An affected school district may submit written comments concerning the application to the authorizer to be considered at the time of the authorizer's review of the application;

(2) Describe a plan for academic achievement that addresses how the open-enrollment public charter school will improve student learning and meet the state education goals, which may include without limitation the implementation of a community school plan, as defined by § 6-15-3002;

(3) Outline the proposed performance criteria that will be used during the initial five-year period of the open-enrollment public charter school operation to measure its progress in improving student learning and meeting or exceeding the state education goals;

(4) List the specific provisions of this title and the specific rules promulgated by the State Board of Education from which the open-enrollment public charter school seeks to be exempted;

(5)(A) Describe in general terms the area within the boundaries of the school district where the applicant intends to obtain a facility to be used for the open-enrollment public charter school.

(B) If the facility to be used for an open-enrollment public charter school is a public school district facility, the open-enrollment public charter school must operate in the facility in accordance with the terms established by the local school district board of directors of the public school district in an agreement governing the relationship between the open-enrollment public charter school and the public school district.

(C) If the facility that will be used for the open-enrollment public charter school is owned by or leased from a sectarian organization, the terms of the facility agreement must be disclosed to the authorizer; and

(6) Include a detailed budget and a governance plan for the operation of the open-enrollment public charter school.

(d)(1)(A) The application may be reviewed and approved by the local school district board of directors of the public school district in which the proposed open-enrollment public charter school will operate.

(B) The applicant may submit to the authorizer for expedited review an application approved by the local school district board of directors under subdivision (d)(1)(A) of this section.

(2)(A) However, if the local school district board of directors disapproves the application, the applicant shall have an immediate right to proceed with a written notice of appeal to the authorizer.

(B) The authorizer shall hold a hearing within forty-five (45) calendar days after receipt of the notice of appeal or a request for review.

(C) All interested parties may appear at the hearing and present relevant information regarding the application.

(e) A licensed teacher employed by a public school district in the school year immediately preceding the effective date of a charter for an open-enrollment public charter school operated at a public school facility may not be transferred to or be employed by the open-enrollment public charter school over the licensed teacher's objections.

History. Acts 1999, No. 890, § 5; 2001, No. 1311, § 2; 2005, No. 2005, § 7; 2007, No. 736, § 13; 2009, No. 1469, § 20; 2011, No. 993, § 5; 2013, No. 509, §§ 6-9; 2017, No. 933, § 5; 2019, No. 315, § 311; 2021, No. 744, § 5.

Amendments. The 2017 amendment rewrote (c)(5)(A).

The 2019 amendment deleted “and regulations” following “rules” in (c)(4).

The 2021 amendment added “which may include without limitation the implementation of a community school plan, as defined by § 6-15-3002” in (c)(2).

6-23-303. Authorization for an open-enrollment public charter school.

As requested by the applicant for an open-enrollment public charter school, the authorizer shall review the application for an open-enrollment public charter school and may approve any application that:

- (1) Provides a plan for academic achievement that addresses how the open-enrollment public charter school proposes to improve student learning and meet the state education goals;
- (2) Includes a set of performance criteria that will be used during the initial five-year period of the open-enrollment public charter school’s operation to measure its progress in meeting its academic performance goals;
- (3) Includes a proposal to directly and substantially involve the parents of students to be enrolled in the open-enrollment public charter school, the licensed employees, and the broader community in carrying out the terms of the open-enrollment charter;
- (4) Includes an agreement to provide an annual report to parents, the community, and the authorizer that demonstrates the progress made by the open-enrollment public charter school during the previous academic year in meeting its academic performance objectives;
- (5) Includes a detailed budget, a business plan, and a governance plan for the operation of the open-enrollment public charter school; and
- (6) Establishes the eligible entity’s status as a tax-exempt organization under § 501(c)(3) of the Internal Revenue Code of 1986 before the first day of its operation with students.

History. Acts 1999, No. 890, § 5; 2007, No. 736, § 14; 2013, No. 509, § 10; 2013, No. 1138, § 65.

6-23-304. Requirements — Preference for certain districts.

- (a) The authorizer may approve or deny an application based on:
 - (1) Criteria provided by law or by rule adopted by the State Board of Education;
 - (2) Findings of the authorizer relating to improving student performance and encouraging innovative programs; and
 - (3) Written findings or statements received by the authorizer from any public school district likely to be affected by the open-enrollment public charter school.

(b) The authorizer shall give preference in approving an application for an open-enrollment public charter school to be located in any public school district:

(1) When the percentage of students who qualify for free or reduced-price lunches is above the average for the state;

(2) When the district has been classified by the state board as in need of Level 5 — Intensive support under § 6-15-2915; or

(3) When the district has been classified by the Division of Elementary and Secondary Education as in some phase of fiscal distress under the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq., if the fiscal distress status is a result of administrative fiscal mismanagement, as determined by the state board.

(c)(1)(A) The division, the state board, or a combination of the division and state board may grant no more than a total of twenty-four (24) charters for open-enrollment public charter schools except as provided under subdivision (c)(1)(B) of this section.

(B) If the cap on the number of charters available for an open-enrollment public charter school is within two (2) charters of meeting any existing limitation or cap on available open-enrollment charters, the number of available charters shall automatically increase by five (5) slots more than the most recent existing limitation or cap on open-enrollment charters.

(C) By March 1 each year, the division shall issue a Commissioner of Elementary and Secondary Education's memo stating the existing limitation on the number of charters available for open-enrollment public charter schools and the number of charters available for open-enrollment public charter schools during the next application cycle.

(2) An open-enrollment public charter applicant's school campus shall be limited to a single open-enrollment public charter school per charter except as allowed in subsection (d) of this section.

(3) An open-enrollment public charter school shall not open in the service area of a public school district administratively reorganized under § 6-13-1601 et seq., until after the third year of the administrative reorganization.

(4) A private or parochial elementary or secondary school shall not be eligible for open-enrollment public charter school status.

(d) A charter applicant that receives an approved open-enrollment public charter may petition the authorizer for additional licenses to establish an open-enrollment public charter school in any of the various congressional districts in Arkansas if the applicant meets the following conditions:

(1) The approved open-enrollment public charter applicant has demonstrated academic success as defined by the state board for all public schools;

(2) The approved open-enrollment public charter applicant has not:

(A) Been subject to any disciplinary action by the authorizer;

(B) Been classified as in need of Level 5 — Intensive support or fiscal distress; and

(C) Had its open-enrollment public charter placed on charter school probation or suspended or revoked under § 6-23-105; and

(3) The authorizer determines in writing by majority of a quorum present that the open-enrollment public charter applicant has generally established the educational program results and criteria set forth in this subsection.

History. Acts 1999, No. 890, §§ 5, 8, 13; 2001, No. 1311, § 3; 2005, No. 2005, § 8; 2007, No. 736, § 15; 2007, No. 827, § 117; 2009, No. 376, § 46; 2011, No. 987, § 1; 2011, No. 993, § 6; 2013, No. 509, § 10; 2019, No. 757, §§ 56, 57; 2019, No. 910, §§ 1739-1741.

Amendments. The 2019 amendment by No. 757 substituted “in need of Level 5 – Intensive support under § 6-15-2915” for “in academic distress under § 6-15-428 [repealed]” in (b)(2); deleted “some

phase of school improvement status under § 6-15-426 [repealed] or” following “as in” in (b)(3); and substituted “in need of Level 5 – Intensive support” for “in academic” in (d)(2)(B).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b)(3); and substituted “division” for “department” in (c)(1)(A) twice and in (c)(1)(C).

6-23-305. Notice of disapproval — Technical assistance to applicant for open-enrollment public charter school.

(a) If the authorizer disapproves an application for an open-enrollment public charter school, the authorizer shall notify the applicant in writing of the reasons for such disapproval.

(b) The Division of Elementary and Secondary Education may provide technical assistance to the applicant for an open-enrollment public charter school in the:

- (1) Creation of its application; and
- (2) Modification of its application as directed by the authorizer.

History. Acts 1999, No. 890, § 5; 2007, No. 736, § 16; 2013, No. 509, § 10; 2015, No. 846, § 30; 2019, No. 910, § 1742.

substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b).

Amendments. The 2019 amendment

6-23-306. Contents of open-enrollment public charters.

An open-enrollment public charter granted under this subchapter shall:

- (1) Describe the educational program to be offered;
- (2) Specify the period for which the open-enrollment public charter or any renewal is valid;
- (3) Provide that the continuation or renewal of the open-enrollment public charter is contingent on acceptable student performance on assessment instruments adopted by the State Board of Education and on compliance with any accountability provision specified by the open-enrollment public charter, by a deadline, or at intervals specified by the open-enrollment public charter;
- (4) Establish the level of student performance that is considered acceptable for purposes of subdivision (3) of this section;

(5) Specify any basis, in addition to a basis specified by this chapter, on which the open-enrollment public charter school may be placed on probation or its charter is revoked or on which renewal of the open-enrollment public charter may be denied;

(6) Prohibit discrimination in admissions policy on the basis of gender, national origin, race, ethnicity, religion, disability, or academic or athletic eligibility, except as follows:

(A) The open-enrollment public charter school may adopt admissions policies that are consistent with federal law, regulations, or guidelines applicable to charter schools;

(B) The open-enrollment public charter school may allow a weighted lottery to be used in the student selection process when necessary to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of the federal Education Amendments of 1972, the equal protection clause of the Fourteenth Amendment to the United States Constitution, a court order, or a federal or state law requiring desegregation; and

(C) The open-enrollment public charter may provide for the exclusion of a student who has been expelled from another public school district in the same manner as a board of directors of a public school district under § 6-18-510;

(7) Specify the grade levels to be offered;

(8) Describe the governing structure of the program;

(9) Specify the qualifications to be met by professional employees of the program;

(10) Describe the process by which the persons providing the program will adopt an annual budget;

(11) Describe the manner in which the annual audit of the financial and programmatic operations of the program is to be conducted, including the manner in which the persons providing the program will provide information necessary for the public school district in which the program is located to participate;

(12) Describe the facilities to be used, including the terms of the facility utilization agreement if the facility for the open-enrollment public charter school is owned or leased from a sectarian organization;

(13) Describe the geographical area, public school district, or school attendance area to be served by the program;

(14)(A) Specify methods for applying for admission, enrollment criteria, and student recruitment and selection processes.

(B)(i)(a) Except as provided in subdivision (14)(C) of this section, if more eligible students apply for a first-time admission than the open-enrollment public charter school is able to accept by the annual deadline that the open-enrollment public charter school has established for the receipt of applications for the next school year, the open-enrollment public charter must require the open-enrollment public charter school to use a random, anonymous student selection method that shall be described in the charter application.

(b)(1) If there are still more applications for admissions than the open-enrollment public charter school is able to accept after the

completion of the random, anonymous student selection method, then the open-enrollment public charter school shall place the applicants on a waiting list for admission.

(2) The waiting list is valid until the next time the open-enrollment public charter school is required to conduct a random, anonymous student selection.

(ii) However, an open-enrollment public charter school may allow a preference for:

(a)(1) Children of the founding members and children of full-time employees and teachers of the eligible entity.

(2) The number of enrollment preferences granted to children of founding members and children of full-time employees and teachers shall not exceed ten percent (10%) of the total number of students enrolled in the open-enrollment public charter school; and

(b) Siblings of students currently enrolled in the open-enrollment public charter school.

(C) The open-enrollment public charter may use a weighted lottery in the student selection process only when necessary to comply with a:

(i) Federal court order; or

(ii) Federal administrative order issued by an appropriate federal agency having proper authority to enforce remedial measures necessary to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of the federal Education Amendments of 1972, or the equal protection clause of the Fourteenth Amendment to the United States Constitution; and

(15) Include a statement that the eligible entity will not discriminate on the basis of race, sex, national origin, ethnicity, religion, age, or disability in employment decisions, including hiring and retention of administrators, teachers, and other employees whose salaries or benefits are derived from any public moneys.

History. Acts 1999, No. 890, § 9; 2001, No. 463, § 1; 2007, No. 736, § 17; 2009, No. 1469, § 21; 2011, No. 993, § 7; 2017, No. 933, § 6; 2017, No. 990, § 1.

Amendments. The 2017 amendment by No. 933 inserted “and children of full-time employees and teachers” in (14)(B)(ii)(a)(1) and (14)(B)(ii)(a)(2).

The 2017 amendment by No. 990 substituted “in the same manner as a board of

directors of a public school district under § 6-18-510” for “in accordance with this title” in (6)(C).

U.S. Code. Title VI of the Civil Rights Act of 1964, referred to in this section, is codified as 42 U.S.C. § 2000d et seq. Title IX of the Education Amendments of 1972 is codified as 20 U.S.C. § 1681 et seq.

RESEARCH REFERENCES

Ark. L. Rev. Charter Schools: Racial-Balancing Provisions and Parents Involved, 61 Ark. L. Rev. 1.

6-23-307. Renewal of charter.

After the initial five-year period of an open-enrollment public charter, the authorizer may renew the open-enrollment public charter on a one-year or multiyear basis, not to exceed twenty (20) years.

History. Acts 1999, No. 890, § 5; 2001, No. 736, § 18; 2011, No. 993, § 8; 2013, No. 1311, § 4; 2005, No. 2005, § 9; 2007, No. 509, § 11.

6-23-308. Priority hiring for teachers.

If a licensed teacher employed by a public school district in the school year immediately preceding the effective date of the open-enrollment public charter is employed by an open-enrollment public charter school and the open-enrollment public charter is revoked, the licensed teacher will receive a priority in hiring for the first available position for which the licensed teacher is qualified in the public school district where the licensed teacher was formerly employed.

History. Acts 1999, No. 890, § 5; 2007, No. 736, § 19; 2013, No. 1138, § 66.

6-23-309. Rules.

The State Board of Education is authorized to promulgate rules for the creation of open-enrollment public charter schools.

History. Acts 1999, No. 890, § 5; 2007, No. 736, § 20; 2019, No. 315, § 312. deleted “and regulations” following “rules” in the section heading and in the section.

Amendments. The 2019 amendment

6-23-310. Status report.

The authorizer shall report to the General Assembly each biennium and to the House Committee on Education and the Senate Committee on Education during the interim between regular sessions of the General Assembly:

(1) The status of the open-enrollment public charter school programs; and

(2) A summary of the authorizing activities in the preceding year, including without limitation the number and type of charters approved, denied, and amended.

History. Acts 1999, No. 890, § 5; 2007, No. 736, § 21; 2013, No. 509, § 12; 2017, No. 933, § 7. deleted “on the status of the open-enrollment public charter school programs” following “report” in the introductory language; and added (1) and (2).

Amendments. The 2017 amendment

SUBCHAPTER 4 — OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS —
OPERATION

SECTION.

- 6-23-401. Authority under a charter for open-enrollment public charter schools.
- 6-23-402. Enrollment numbers and deadline.
- 6-23-403. Annual audit of open-enrollment public charter school required.

SECTION.

- 6-23-404. Evaluation of open-enrollment public charter schools.
- 6-23-405. Monthly reports.
- 6-23-406. Division of Elementary and Secondary Education review.

Effective Dates. Acts 2001, No. 1311, § 10: Apr. 5, 2001. Emergency clause provided: “It is found and determined by the General Assembly that the current funding requirements for charter schools need immediate revisions; that it is necessary to have the funding before the beginning of the fiscal year; that the notice requirements and other changes could cause confusions and delay for citizens petitioning for a charter school during the third application cycle if there is delay enacting legislation; and that proper notice of petition requirements and funding changes are immediately necessary. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 2011, No. 993, § 18: Apr. 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the state’s constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public charter schools; and that this act is

immediately necessary so that the affected public charter schools will receive the amount of funding provided under this act for the current school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-23-401. Authority under a charter for open-enrollment public charter schools.

(a) An open-enrollment public charter school:

(1) Shall be governed by an eligible entity that is fiscally accountable and under the governing structure as described by the charter;

(2) Shall provide instruction to students at one (1) or more elementary or secondary grade levels as provided by the charter;

(3) Shall retain authority to operate under the charter contingent on satisfactory student performance as provided by the charter and in accordance with this chapter;

(4) Shall have no authority to impose taxes;

(5) Shall not incur any debts without the prior review and approval of the Commissioner of Elementary and Secondary Education;

(6) Shall not charge students tuition or fees that would not be allowable charges in the public school districts; and

(7) Shall not be religious in its operations or programmatic offerings.

(b) An open-enrollment public charter school is subject to any prohibition, restriction, or requirement imposed by this title and any rule promulgated by the State Board of Education under this title relating to:

(1) Monitoring compliance with this chapter, as determined by the commissioner;

(2) Public school accountability under this title;

(3) High school graduation requirements as established by the state board;

(4) Special education programs as provided by this title;

(5) Conducting criminal background checks for employees as provided in this title;

(6) Health and safety codes as established by the state board and local governmental entities; and

(7) Reporting through the Arkansas Public School Computer Network applications as provided under this title.

History. Acts 1999, No. 890, § 6; 2007, No. 736, § 22; 2019, No. 315, § 313; 2019, No. 815, § 7.

Amendments. The 2019 amendment by No. 315 deleted “and regulation” fol-

lowing “rule” in the introductory language of (b).

The 2019 amendment by No. 815 added (b)(7).

6-23-402. Enrollment numbers and deadline.

(a) An open-enrollment public charter school may enroll a number of students not to exceed the number of students specified in its charter.

(b)(1) Any student enrolling in an open-enrollment public charter school shall enroll in that school by July 30 for the upcoming school year during which the student will be attending the open-enrollment public charter school.

(2) However, if a student enrolled by July 15 should no longer choose to attend the open-enrollment public charter school or if the open-

enrollment public charter school has not yet met its enrollment cap, the open-enrollment public charter school may enroll a number of replacement or additional students not to exceed the enrollment cap of the open-enrollment public charter school.

(3) An open-enrollment public charter school shall have a policy concerning whether the open-enrollment public charter school will enroll students after July 30.

(c) Open-enrollment public charter schools shall keep records of attendance in accordance with the law and submit quarterly attendance reports to the Division of Elementary and Secondary Education.

History. Acts 1999, No. 890, § 7; 2001, No. 1311, § 5; 2005, No. 2005, § 10; 2007, No. 736, § 23; 2011, No. 989, § 74; 2011, No. 993, § 9; 2019, No. 910, § 1743; 2021, No. 774, § 11.	Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” in (c). The 2021 amendment added (b)(3).
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6-23-403. Annual audit of open-enrollment public charter school required.

Any other provisions of the Arkansas Code notwithstanding, an open-enrollment public charter school shall be subject to the same auditing and accounting requirements as any other public school district in the state.

History. Acts 1999, No. 890, § 14; 2007, No. 736, § 24.

6-23-404. Evaluation of open-enrollment public charter schools.

(a) The Division of Elementary and Secondary Education shall cause to be conducted an annual evaluation of open-enrollment public charter schools.

(b) An annual evaluation shall include without limitation consideration of:

- (1) Student scores under the statewide assessment program described in § 6-15-433 [repealed];
- (2) Student attendance;
- (3) Student grades;
- (4) Incidents involving student discipline;
- (5) Socioeconomic data on students’ families;
- (6) Parental satisfaction with the schools;
- (7) Student satisfaction with the schools; and
- (8) The open-enrollment public charter school’s compliance with § 6-23-107.

(c) The authorizer may require the charter holder to appear before the authorizer to discuss the results of the evaluation and to present further information to the authorizer as the authorizer deems necessary.

History. Acts 1999, No. 890, § 12; 2001, No. 1311, § 6; 2007, No. 736, § 25; 2011, No. 993, § 10; 2013, No. 509, § 13; 2019, No. 910, § 1744.

Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a).

6-23-405. Monthly reports.

An open-enrollment public charter school in its initial school year of operation shall provide monthly reports on its enrollment status and compliance with its approved budget for the current school year to the Division of Elementary and Secondary Education.

History. Acts 2011, No. 993, § 11; 2019, No. 910, § 1745.

substituted “Division of Elementary and Secondary Education” for “Department of Education”.

Amendments. The 2019 amendment

6-23-406. Division of Elementary and Secondary Education review.

The Division of Elementary and Secondary Education shall:

(1) Conduct an end-of-semester review of each open-enrollment public charter school that is in its initial school year of operation at the end of the first semester and at the end of the school year; and

(2) Report to the State Board of Education and the Commissioner of Elementary and Secondary Education on the open-enrollment public charter school’s:

(A) Overall financial condition; and

(B) Overall condition of student enrollment.

History. Acts 2011, No. 993, § 11; 2013, No. 509, § 14; 2019, No. 910, § 1746.

Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of

Education” in the section heading and in the introductory language; and substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (2).

SUBCHAPTER 5 — OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS — FUNDING

SECTION.

6-23-501. Funding for open-enrollment public charter schools.

6-23-502. Source of funding.

6-23-503. Use of funding.

6-23-504. Employee benefits.

SECTION.

6-23-505. Annual audit.

6-23-506. Assets of school as property of state.

6-23-507. Rules.

Effective Dates. Acts 2001, No. 1311, § 10: Apr. 5, 2001. Emergency clause provided: “It is found and determined by the General Assembly that the current funding requirements for charter schools need immediate revisions; that it is necessary to have the funding before the beginning

of the fiscal year; that the notice requirements and other changes could cause confusions and delay for citizens petitioning for a charter school during the third application cycle if there is delay enacting legislation; and that proper notice of petition requirements and funding changes

are immediately necessary. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003 (2nd Ex. Sess.), No. 59, § 6: July 1, 2004. Effective date clause provided: "This act shall become effective on July 1, 2004."

Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 993, § 18: Apr. 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly

of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public charter schools; and that this act is immediately necessary so that the affected public charter schools will receive the amount of funding provided under this act for the current school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-23-501. Funding for open-enrollment public charter schools.

(a)(1) An open-enrollment public charter school shall receive funds equal to the amount that a public school would receive under § 6-20-2305(a) and (b) as well as any other funding that a public charter school

is entitled to receive under law or under rules promulgated by the State Board of Education.

(2)(A) For the first year of operation, the first year operating under a new license, the first year adding a new campus, and in any year a grade is added at any campus, the foundation funding and enhanced educational funding for an open-enrollment public charter school is determined as follows:

(i) The initial funding estimate shall be based on enrollment as of July 1 of the current school year;

(ii) In December, funding will be adjusted based upon the first quarter average daily membership; and

(iii) A final adjustment will be made after the current three-quarter average daily membership is established.

(B) For the second year and each school year thereafter, the previous year's average daily membership will be used to calculate foundation funding and any enhanced educational funding amounts.

(3) Enhanced Student Achievement Funding under § 6-20-2305(b)(4) shall be provided to an open-enrollment public charter school as follows:

(A) For the first year of operation, the first year operating under a new license, the first year adding a new campus, and in any year when a grade is added at any campus, free or reduced-price meal eligibility data as reported by October 1 of the current school year will be used to calculate the Enhanced Student Achievement Funding under the state board rules governing special needs funding; and

(B) For the second year and each school year of operation thereafter, the previous year's October 1 national school lunch student count as specified in state board rules governing special needs funding will be used to calculate Enhanced Student Achievement Funding for the open-enrollment public charter school.

(4) Professional development funding under § 6-20-2305(b)(5) shall be provided to an open-enrollment public charter school for the first year of operation, the first year operating under a new license, the first year adding a new campus, and in any year in which a grade is added at any campus as follows:

(A) In the first year of operation the open-enrollment public charter school shall receive professional development funding based upon the initial projected enrollment student count as of July 1 of the current school year multiplied by the per-student professional development funding amount under § 6-20-2305(b)(5) for that school year; and

(B) For the second year and each school year thereafter, professional development funding will be based upon the previous year's average daily membership multiplied by the per-student professional development funding amount for that school year.

(5) The Division of Elementary and Secondary Education shall distribute other categorical funding under § 6-20-2305(a) and (b) for which an open-enrollment public charter school is eligible as provided by state law and rules promulgated by the state board.

(6) An open-enrollment public charter school shall not be denied foundation funding, enhanced educational funding, or categorical funding in the first year or any year of operation provided that the open-enrollment public charter school submits to the division the number of students eligible for funding as specified in applicable rules.

(7) Foundation funding for an open-enrollment public charter school shall be paid in twelve (12) installments each fiscal year.

(b) An open-enrollment public charter school may receive any state and federal aids, grants, and revenue as may be provided by law.

(c) Open-enrollment public charter schools may receive gifts and grants from private sources in whatever manner is available to public school districts.

History. Acts 1999, No. 890, § 7; 2001, No. 1311, § 7; 2003 (2nd Ex. Sess.), No. 59, § 3; 2005, No. 2005, § 11; 2007, No. 736, § 26; 2009, No. 1469, § 22; 2011, No. 981, § 14; 2011, No. 989, §§ 75-77; 2011, No. 993, §§ 12-14; 2017, No. 542, § 4; 2017, No. 933, § 8; 2019, No. 910, § 1747; 2019, No. 1083, § 4.

A.C.R.C. Notes. Pursuant to Acts 2011, No. 981, § 19, § 6-23-501 is set out above as amended by Acts 2011, No. 993, § 14. Acts 2011, No. 981, § 19 read as follows: “The enactment and adoption of this act shall not repeal, expressly or impliedly, the acts passed at the regular session of the Eighty-Eighth General Assembly. All such acts shall have the full force and effect and, so far as those acts intentionally vary from or conflict with any provision contained in this act, those acts shall have the effect of subsequent acts and as amending or repealing the appropriate parts of the Arkansas Code of 1987.”

Pursuant to § 1-2-207, § 6-23-501(a)(2)(A)(i) is set out above as amended by Acts 2011, No. 993, § 12. Section 6-23-501(a)(2)(A)(i) was also amended by Acts 2011, No. 989, § 75, as follows: “(i) The initial funding estimate shall be based on enrollment as of July 15 of the school year in which the students are to attend classes;”.

Pursuant to § 1-2-207, § 6-23-501(a)(4)(A) is set out above as amended

by Acts 2011, No. 993, § 14. Section 6-23-501(a)(4)(A) was also amended by Acts 2011, No. 989, § 76, as follows: “(A)(i) In the first year of operation the open-enrollment public charter school shall receive professional development funding based upon the initial projected enrollment student count as of July 15 of the school year in which the students are to attend, multiplied by the per-student professional development funding amount under § 6-20-2305(b)(5) for that school year.”

Amendments. The 2017 amendment by No. 542 repealed former (d).

The 2017 amendment by No. 933 substituted “the first year operating under a new license, the first year adding a new campus, and in any year a grade is added at any campus” for “and for the first year the open-enrollment public charter school adds a new grade” in (a)(2)(A); and in (a)(3)(A) and (a)(4), inserted “the first year operating under a new license, the first year adding a new campus” and inserted “at any campus”.

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a)(5); and substituted “division” for “department” in (a)(6).

The 2019 amendment by No. 1083 substituted “Enhanced Student Achievement Funding” for “national school lunch state categorical funding” throughout (a)(3).

6-23-502. Source of funding.

(a) Open-enrollment public charter schools shall be funded each year through funds set aside from funds appropriated to state foundation funding aid in the Public School Fund.

(b) The amount set aside shall be determined by the State Board of Education.

History. Acts 1999, No. 890, § 7; 2001, Fund, § 6-20-203 — § 6-20-206, § 6-20-1311, § 8; 2007, No. 736, § 27. 211, § 19-5-305.

Cross References. Public School

6-23-503. Use of funding.

(a) An open-enrollment public charter school may not use the moneys that it receives from the state for any sectarian program or activity or as collateral for debt.

(b)(1) No indebtedness of any kind incurred or created by the open-enrollment public charter school shall constitute an indebtedness of the state or its political subdivisions, and no indebtedness of the open-enrollment public charter school shall involve or be secured by the faith, credit, or taxing power of the state or its political subdivisions.

(2) Every contract or lease into which an open-enrollment public charter school enters shall include the wording of subdivision (b)(1) of this section.

History. Acts 1999, No. 890, § 7; 2007, No. 736, § 28.

6-23-504. Employee benefits.

Employees of an open-enrollment public charter school shall be eligible to participate in all benefits programs available to public school employees.

History. Acts 1999, No. 890, § 7; 2007, No. 736, § 29.

6-23-505. Annual audit.

An open-enrollment public charter school shall prepare an annual certified audit of the financial condition and transactions of the open-enrollment public charter school as of June 30 of each year in accordance with generally accepted auditing procedures and containing any other data as determined by the State Board of Education for all public schools.

History. Acts 1999, No. 890, § 7; 2007, No. 736, § 30; 2013, No. 509, § 15.

RESEARCH REFERENCES

Ark. L. Rev. Preston C. Green III & Chelsea E. Connery, Charter Schools, Academy Schools, and Related-Party Transactions: Same Scams, Different Countries, 72 Ark. L. Rev. 409 (2019).

6-23-506. Assets of school as property of state.

(a) Upon dissolution of the open-enrollment public charter school or upon nonrenewal or revocation of the charter, all net assets of the open-enrollment public charter school, including any interest in real property, purchased with public funds shall be deemed the property of the state, unless otherwise specified in the charter of the open-enrollment public charter school.

(b)(1) If the open-enrollment public charter school used state funds to purchase or finance personal property, real property, or fixtures for use by the open-enrollment public charter school, the Division of Elementary and Secondary Education may require that the property be sold.

(2) The state has a perfected priority security interest in the net proceeds from the sale or liquidation of the property to the extent of the public funds used in the purchase.

History. Acts 1999, No. 890, § 7; 2007, No. 736, § 31; 2013, No. 509, § 16; 2019, No. 910, § 1748. substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b)(1).

Amendments. The 2019 amendment

6-23-507. Rules.

The State Board of Education shall have the authority to promulgate rules in accordance with other state and federal statutes and regulations to implement this subchapter and § 6-23-402.

History. Acts 1999, No. 890, § 7; 2019, No. 315, § 314. deleted “and regulations” following “rules” in the section heading and in the section,

Amendments. The 2019 amendment and inserted “and regulations”.

SUBCHAPTER 6 — LIMITED PUBLIC CHARTER SCHOOLS

[Repealed.]

SECTION.
6-23-601. [Repealed.]

6-23-601. [Repealed.]

Publisher’s Notes. This section, concerning application for limited public charter school status, teacher transfers, and annual evaluations, was repealed by Acts 2015, No. 846, § 31. The section was derived from Acts 2001, No. 1311, § 9; 2005, No. 2005, § 12; 2007, No. 736, § 32; 2011, No. 993, § 15; 2013, No. 509, § 17; 2013, No. 1138, §§ 67-69.

SUBCHAPTER 7 — PUBLIC CHARTER SCHOOL AUTHORIZER

SECTION.
6-23-701. Designated public charter authorizer.

SECTION.
6-23-702. Public charter authorizing procedures — Notification.

SECTION.

6-23-703. State Board of Education optional review.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-23-701. Designated public charter authorizer.

(a) The Division of Elementary and Secondary Education is the designated public charter authorizer with jurisdiction and authority over all public charters issued in this state to take the following actions on a proposed or established public charter:

- (1) Approve;
- (2) Reject;
- (3) Renew;
- (4) Nonrenew;
- (5) Place on probation;
- (6) Modify;
- (7) Revoke;
- (8) Deny;
- (9) Transfer; or
- (10) Assign.

(b)(1) The division shall exercise authority over public charter schools under this chapter through a public charter authorizing panel established within the division.

(2)(A) The Commissioner of Elementary and Secondary Education shall appoint a public charter authorizing panel that may consist of individuals from outside the division as well as professional staff employed at the division to serve at the pleasure of the commissioner.

(B) The commissioner may elect to serve as a member on the public charter authorizing panel as the chair.

(3) The public charter authorizing panel shall be composed of an odd number of members and shall consist of no less than five (5) members and no more than eleven (11) members.

(c) The division may waive provisions of this title or State Board of Education rules as allowed by law for public charters.

(d)(1) The division shall conduct all hearings on public charter school matters as required by law, rule, and process and make final determinations as allowed by law.

(2)(A) A hearing under this chapter conducted by the division shall be an open meeting under § 25-19-106.

(B) For the purposes of § 25-19-106, the members of the public charter authorizing panel shall be considered a governing body only in regard to actions specifically authorized by this subchapter.

(3)(A) All decisions of the public charter authorizing panel shall be made by majority vote of the quorum.

(B) A decision of the division is final except as provided under § 6-23-703.

(4) The Arkansas Administrative Procedure Act, § 25-15-201 et seq., shall not apply to a hearing concerning a public charter school.

(e) The division shall be the primary authorizer of public charters except as provided under § 6-23-703.

History. Acts 2013, No. 509, § 18; 2017, No. 462, § 1; 2019, No. 761, § 4; 2019, No. 910, § 1749.

Amendments. The 2017 amendment substituted “may consist of individuals from outside the department as well as” for “consists of” in (b)(2)(A).

The 2019 amendment by No. 761 substituted “Nonrenew” for “Non-renew” in (a)(4); and added (a)(9) and (a)(10).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in the introductory language of (a); substituted “division” for “department” throughout the section; and substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (b)(2)(A).

6-23-702. Public charter authorizing procedures — Notification.

(a) The State Board of Education shall adopt rules as necessary to administer this subchapter, including without limitation the procedure for:

(1) Hearings; and

(2) Administration of the public charter authorizing panel.

(b)(1) The Division of Elementary and Secondary Education shall notify in writing the state board, charter applicant, public charter school, and affected school districts, if any, of final decisions made by the division no less than fourteen (14) calendar days before the next regularly scheduled state board meeting after the final decision is made by the division.

(2)(A) A charter applicant, public charter school, or affected school district, if any, may submit in writing a request that the state board review the final decision of the division under § 6-23-703.

(B) The written request submitted under subdivision (b)(2)(A) of this section shall state the specific reasons supporting a review by the state board.

(3) The decision of whether to review a final decision of the division is discretionary by the state board and the provisions of this section and § 6-23-703 do not grant any right of appeal to a charter applicant, public charter school, or affected school district.

History. Acts 2013, No. 509, § 18; 2019, No. 910, § 1750.

Amendments. The 2019 amendment substituted “Division of Elementary and

Secondary Education” for “Department of Education” in (b)(1); and substituted “division” for “department” throughout (b).

6-23-703. State Board of Education optional review.

(a) On a motion approved by a majority vote, the State Board of Education may exercise a right of review of a charter determination made by the charter authorizer at the next regularly scheduled state board meeting after receiving notice provided under § 6-23-702(b).

(b) If the state board votes to review a final decision made by the charter authorizer, the state board shall:

(1) State the specific additional information the state board requires from the Division of Elementary and Secondary Education, public charter school, public charter school applicant, or affected school district;

(2) Conduct a full hearing regarding a final decision by the division under § 6-23-701(a); and

(3) Hold the hearing at the earlier of:

(A) The next regularly scheduled state board meeting following the state board meeting during which the state board voted to authorize a review; or

(B) A special board meeting called by the state board.

(c)(1) At the conclusion of the hearing, the state board may issue a final decision by state board vote.

(2) The state board may decide by majority vote of the quorum to:

(A) Affirm the decision of the division;

(B) Take other lawful action on the public charter; or

(C)(i) Request additional information from the division, public charter school, public charter school applicant, or affected school district, if needed.

(ii) If the state board requests additional information under subdivision (c)(2)(C)(i) of this section, the state board shall hold a subsequent hearing at the earlier of:

(a) The next regularly scheduled state board meeting; or

(b) A special board meeting called by the state board.

(3) A decision made by the state board is final with no right of appeal.

(d) The state board may promulgate rules as necessary to implement this section.

History. Acts 2013, No. 509, § 18; 2019, No. 910, § 1751; 2021, No. 774, § 12.

Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a); and substituted “division” for “department” throughout the section.

The 2021 amendment substituted “charter authorizer” for “Division of Elementary and Secondary Education” in (a); substituted “charter authorizer” for “division” in the introductory language of (b); and substituted “Division of Elementary and Secondary Education” for “division” in (b)(1).

SUBCHAPTER 8 — OPEN-ENROLLMENT PUBLIC CHARTER SCHOOL CAPITAL GRANT PROGRAM

SECTION.	SECTION.
6-23-801. Definitions.	6-23-803. Application for grant.
6-23-802. Purposes of grants.	6-23-804. Administration — Rules.

6-23-801. Definitions.

- As used in this subchapter:
- (1) “Academic facility” means a building or space, including related areas such as the physical plant and grounds, that is part of an institution in which students receive instruction;
 - (2) “Maintenance, repair, and renovation” means an activity or improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds that maintains, conserves, or protects the state of condition or efficiency of the academic facility;
 - (3) “National school lunch students” has the same meaning as in § 6-20-2303; and
 - (4) “New construction” means an improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds, that improves the state of condition or efficiency of the academic facility.

History. Acts 2013, No. 1064, § 1.

6-23-802. Purposes of grants.

- An open-enrollment public charter school may apply for and the Division of Public School Academic Facilities and Transportation may grant moneys from the Open-Enrollment Public Charter School Capital Grant Program Fund for one (1) or more of the following purposes:
- (1) The maintenance, repair, renovation, and new construction of academic facilities;
 - (2) The cost of acquiring a site and constructing and equipping an academic facility on that site;
 - (3) The purchase of instructional materials, technology systems, and other academic equipment; and
 - (4) The repayment of debt incurred by an open-enrollment public charter school for one (1) or more of the purposes identified in subdivisions (1)-(3) of this section.

History. Acts 2013, No. 1064, § 1.

6-23-803. Application for grant.

- (a) The board of directors of an open-enrollment public charter school may request a grant from the Open-Enrollment Public Charter School Capital Grant Program under this subchapter by filing a formal application with the Division of Public School Academic Facilities and Transportation using the form and in the manner required by rules of

the Commission for Arkansas Public School Academic Facilities and Transportation.

(b) The application shall contain the following information without limitation:

- (1) The open-enrollment public charter school's:
 - (A) Name;
 - (B) Local education agency number; and
 - (C) Location;
 - (2) A certified copy of the written resolution of the board that includes without limitation:
 - (A) The board's authorization for filing the application; and
 - (B) The date and place of the meeting of the board at which the action was taken;
 - (3) The proposed use for the proceeds of the grant;
 - (4) The amount of the grant requested and supporting evidence upon which the amount is based; and
 - (5) Additional information required by the division.
- (c) The open-enrollment public charter school shall:
- (1) Execute the application in duplicate;
 - (2) File the original with the division; and
 - (3) Retain one (1) copy in the files of the open-enrollment public charter school.
- (d) Within a reasonable time after its receipt of an application for a grant from the Open-Enrollment Public Charter School Capital Grant Program under this subchapter, the division shall review the accuracy and merits of the application and either:
- (1) Approve the application for the full amount of the grant request;
 - (2) Approve the application for a grant of a lesser amount than the amount requested; or
 - (3) Reject the application.

History. Acts 2013, No. 1064, § 1.

6-23-804. Administration — Rules.

(a)(1) The Division of Public School Academic Facilities and Transportation shall administer the Open-Enrollment Public Charter School Capital Grant Program in a manner that awards a grant and monitors the use of a grant according to the stated purpose of the grant.

(2) This section is not intended to subject a grant applicant to rules similar to those applicable to school districts under the Arkansas Public School Academic Facilities Funding Act, § 6-20-2501 et seq., and the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.

(b) The Commission for Arkansas Public School Academic Facilities and Transportation shall promulgate rules to implement this subchapter.

History. Acts 2013, No. 1064, § 1.

SUBCHAPTER 9 — OPEN-ENROLLMENT PUBLIC CHARTER SCHOOL FACILITIES

LOAN FUND

SECTION.	SECTION.
6-23-901. Open-Enrollment Public Charter School Facilities Loan Fund — Established.	6-23-905. Loan decision.
6-23-902. Funding source — Procedures.	6-23-906. Rules.
6-23-903. Purpose of loan.	6-23-907. Failure to remit payment.
6-23-904. Loan application.	6-23-908. Open-Enrollment Public Charter School Facilities Funding Aid Program.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-23-901. Open-Enrollment Public Charter School Facilities

Loan Fund — Established.

Beginning with the 2013-2014 school year, the Open-Enrollment Public Charter School Facilities Loan Fund is established under § 19-5-1251 to provide funding for safe and secure facilities in which to conduct educational services and administrative activities for open-enrollment public charter schools.

History. Acts 2013, No. 1255, § 1.

6-23-902. Funding source — Procedures.

- (a) The Open-Enrollment Public Charter School Facilities Loan Fund shall be administered and operated by the Division of Public School Academic Facilities and Transportation for the sole purpose of facility assistance for eligible open-enrollment public charter schools.
- (b) The fund may be funded by:

(1) General revenues received by the division for the purpose of starting, augmenting, or replenishing the fund;

(2) Grants received by the division for the express purpose of providing open-enrollment public charter school facilities assistance, including grants from the United States Department of Education; and

(3) Donations or bequests from organizations or individuals received by the division that are designated for the fund.
- (c) The division shall:

(1) Use rules and forms adopted by the Commission for Arkansas Public School Academic Facilities and Transportation for the administration and operation of the loan program, including without limitation a loan application form that addresses:

(A) A specific description of the project or facility for which funding is needed;

(B) A description of the project or facility for which funding is needed, including the physical location of the project or facility;

(C) The anticipated cost of acquisition, construction, lease, operation, addition, improvement, or repair of the open-enrollment public charter school facility;

(D) An explanation for the open-enrollment public charter school's inability to provide sufficient funding for the project or facility through other resources;

(E) A description of the funds that the open-enrollment public charter school intends to use to collateralize and pledge to secure the loan;

(F) A repayment period of not to exceed ten (10) years from the date the loan is approved;

(G) A resolution from the open-enrollment public charter school's governing board stating the necessity of the requested assistance; and

(H) The repayment terms and conditions of the loan with the repayment interest rate not to exceed one percent (1%) of the interest rate earned by money in the fund; and

(2) Develop a prioritization system to fund projects and facilities if sufficient funding is not available to fully fund all eligible requests.

(d) The division shall dedicate sufficient personnel and resources to administer the loan program in a timely and responsive manner.

(e) All earnings received on the investment of assets held in the fund shall be used in the following order of priority for the following purposes:

(1) To pay the operating expenses of the fund administered by the division; and

(2) To fund loans under § 6-23-903 or as permitted by law.

History. Acts 2013, No. 1255, § 1.

6-23-903. Purpose of loan.

An open-enrollment public charter school may borrow and the Division of Public School Academic Facilities and Transportation may lend money from the Open-Enrollment Public Charter School Facilities Loan Fund for:

(1) The construction, lease, or purchase of an academic facility;

(2) The repair, improvement, or addition to an academic facility; or

(3) Credit enhancement for financing academic facility projects under subdivision (1) or subdivision (2) of this section.

History. Acts 2013, No. 1255, § 1.

6-23-904. Loan application.

(a) The board of directors of an open-enrollment public charter school wanting to borrow money from the Open-Enrollment Public Charter School Facilities Loan Fund, acting through its chair or president and secretary, after approval of such action by full majority approval of the board of directors, shall file a loan application with the Division of Public School Academic Facilities and Transportation.

(b) The loan application shall be on a form promulgated by the Commission for Arkansas Public School Academic Facilities and Transportation and include without limitation:

(1) The name, location, and local education agency number of the open-enrollment public charter school;

(2) The date and location of the board of directors meeting at which action was taken to make a formal application for a loan;

(3) The purpose for which the loan will be used;

(4) The estimated amount of the proposed loan, including any supporting documentation on cost estimates;

(5) Complete financial information, including all current debt obligations;

(6) The method proposed to repay the loan; and

(7) Any additional information requested by the division.

(c) An application shall be executed in duplicate with the original to be filed with the division and the copy to be retained in the files of the open-enrollment public charter school.

History. Acts 2013, No. 1255, § 1.

6-23-905. Loan decision.

(a) The Division of Public School Academic Facilities and Transportation shall review and assess the accuracy of the information provided in each loan application within a reasonable time after receiving a loan application.

(b)(1) After reviewing and considering the merits of the application, the division may:

(A) Approve the loan requested for the full amount;

(B) Approve the loan requested for an amount less than requested;

or

(C) Deny the loan.

(2) The division shall notify the open-enrollment public charter school in writing of the decision.

(c) An open-enrollment public charter school may apply for and accept a loan from the Open-Enrollment Public Charter School Facilities Loan Fund without prior approval from the Commissioner of Elementary and Secondary Education under § 6-23-401(a)(5).

History. Acts 2013, No. 1255, § 1; substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (c).
2021, No. 544, § 53.

Amendments. The 2021 amendment

6-23-906. Rules.

(a) The Commission for Arkansas Public School Academic Facilities and Transportation shall promulgate rules necessary to administer the Open-Enrollment Public Charter School Facilities Loan Fund, which shall include without limitation a provision for the prioritization of loan applications.

(b) This section is not intended to subject a loan applicant to rules similar to those applicable to school districts under the Arkansas Public School Academic Facilities Funding Act, § 6-20-2501 et seq., and the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.

History. Acts 2013, No. 1255, § 1.

6-23-907. Failure to remit payment.

(a) If an open-enrollment public charter school fails to remit payment for an outstanding loan under the Open-Enrollment Public Charter School Facilities Loan Fund, upon certification of the amount of delinquent funds by the Division of Public School Academic Facilities and Transportation, the amount of delinquent funds including penalties and interest may be deducted from the operating funds designated to the open-enrollment public charter school through the Division of Elementary and Secondary Education and remitted directly by the Division of Elementary and Secondary Education to the Open-Enrollment Public Charter School Facilities Loan Fund if requested by the Division of Public School Academic Facilities and Transportation.

(b) The operating funds from which delinquent funds may be deducted for an open-enrollment public charter school are limited to:

(1) State funding distributed under § 6-20-2305, including without limitation state foundation funding and state categorical funding;

(2) Federal funding to the extent allowed under federal law; and

(3) The net assets of an open-enrollment public charter school deemed property of the state upon revocation or nonrenewal of the charter.

(c) The state shall hold a preferred security interest in the amount of the outstanding loan.

History. Acts 2013, No. 1255, § 1;
2019, No. 910, § 1752.

Amendments. The 2019 amendment, in (a), substituted “Division of Elementary and Secondary Education and remitted directly by the Division of Elementary and

Secondary Education” for “Department of Education and remitted directly by the department” and substituted the second occurrence of “Division of Public School Academic Facilities and Transportation” for “division”.

6-23-908. Open-Enrollment Public Charter School Facilities Funding Aid Program.

(a) There is created the Open-Enrollment Public Charter School Facilities Funding Aid Program.

(b)(1) An open-enrollment public charter school that meets the criteria under subsection (c) of this section is eligible to receive funding from the program on a pro rata distribution of available funding per student, based upon the open-enrollment public charter school's previous year three-quarter average daily membership.

(2) For an open-enrollment public charter school in its first year of operation, the first year operating under a new license, the first year adding a new campus, or in any year a grade is added at any campus, the funding from the program shall be determined using the method under § 6-23-501(a)(2)(A).

(c) In addition to the open-enrollment public charter school's successful completion of the charter application review and approval process, the open-enrollment public charter school shall meet all of the following criteria in order to receive funding under the program:

(1) Virtual technology is not the primary method of delivering instruction;

(2) The facility meets all applicable health, fire, and safety codes and all accessibility requirements under the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., and the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as reviewed by the Division of Public School Academic Facilities and Transportation or another appropriate state agency; and

(3) The open-enrollment public charter school is not:

(A) Classified as in need of Level 5 — Intensive support under § 6-15-2915 or in fiscal distress under the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq., and the corresponding rules adopted by the State Board of Education;

(B) In receipt of a rating of "F" under § 6-15-2105; or

(C) Placed in probationary status by the state charter school authorizer under § 6-23-105.

(d) The funds received by an open-enrollment public charter school under this section shall be used only for the lease, purchase, renovation, repair, construction, installation, restoration, alteration, modification, or operation and maintenance of an approved facility that meets the requirements of subsection (c) of this section.

(e)(1) If an open-enrollment public charter school fails to use funds received under this section as provided under subsection (d) of this section or no longer has the need for the funds, the Division of Public School Academic Facilities and Transportation shall certify and recoup the funds from the operating funds designated to the open-enrollment public charter school through the Division of Elementary and Secondary Education and remitted directly by the Division of Elementary and Secondary Education.

(2) The operating funds from which the Division of Public School Academic Facilities and Transportation may recoup funds from an open-enrollment public charter school are limited to:

(A) State funding distributed under § 6-20-2305, including without limitation state foundation funding and state categorical funding;

(B) Federal funding to the extent allowed under federal law; and

(C) The net assets of an open-enrollment public charter school deemed property of the state upon revocation or nonrenewal of the charter after all legal debts owed to third parties are satisfied.

(3) The state shall hold a preferred security interest in the funds received under this section as provided under subsection (d) of this section or the amount of funds no longer needed.

(f) This section does not entitle or subject an open-enrollment public charter school to the Arkansas Public School Academic Facilities Funding Act, § 6-20-2501 et seq., or the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.

(g) The Division of Elementary and Secondary Education may promulgate rules to implement this section.

History. Acts 2015, No. 739, § 1; 2017, No. 933, § 9; 2019, No. 757, § 58; 2019, No. 910, § 1753; 2021, No. 774, § 13.

Amendments. The 2017 amendment substituted “the first year operating under a new license, the first year adding a new campus, or in any year a grade is added at any campus” for “or for an open-enrollment public charter school that adds a new grade” in (b)(2).

The 2019 amendment by No. 757 substituted “in need of Level 5 – Intensive support under § 6-15-2915” for “in academic distress under § 6-15-428 [repealed]” in (c)(3)(A); and rewrote (c)(3)(B).

The 2019 amendment by No. 910 substituted “Division of Public School Academic Facilities and Transportation” for “division” in (e)(1) and the introductory language of (e)(2); and substituted “Division of Elementary and Secondary Education and remitted directly by the Division of Elementary and Secondary Education” for “Department of Education and remitted directly by the department” at the end of (e)(1).

The 2021 amendment substituted “Division of Elementary and Secondary Education” for “Commission for Arkansas Public School Academic Facilities and Transportation” in (g).

SUBCHAPTER 10 — ADULT EDUCATION CHARTER SCHOOL

SECTION.

6-23-1001. Application for adult education charter school.

6-23-1002. Authorization for adult education public charter.

6-23-1003. Resubmission of applications.

6-23-1004. Enrollment in an adult education charter school.

SECTION.

6-23-1005. Funding.

6-23-1006. Charter renewal.

6-23-1007. Reporting.

6-23-1008. Rules.

Effective Dates. Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of

certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two

uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of

the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-23-1001. Application for adult education charter school.

(a)(1) An eligible entity may apply to the authorizer for adult education charter school status for an adult education program that offers a curriculum that culminates in:

- (A) A high school diploma; and
- (B) An industry certification.

(2) An adult education charter school shall be recognized by the State Board of Education as an open-enrollment public charter school.

(3) An adult education charter school does not count toward the cap for open-enrollment public charter schools under § 6-23-304(c).

(b) A nonprofit entity's application for an adult education charter school shall include without limitation a:

(1) History of the nonprofit entity's success in providing education services, including industry certifications and job placement services, to adults eighteen (18) years of age and older whose educational and training opportunities have been limited by educational disadvantages, disabilities, homelessness, criminal history, or similar circumstances;

(2)(A) Pledge to commit at least one million dollars (\$1,000,000) to the adult education public charter school, if approved.

(B) Up to twenty-five percent (25%) of the commitment may be in-kind.

(C) A nonprofit entity that is opening an additional adult education public charter school under this section is not required to commit one million dollars (\$1,000,000) for the additional adult education public charter school if it has already pledged to commit at least one million dollars (\$1,000,000) to an adult education public charter school under subdivision (b)(2)(A) of this section;

(3) Description of any partnership with a state-supported two-year institution of higher education, if anticipated;

(4) Description of testimony from a public hearing in the community where the adult education charter school is planned;

(5) Copy of the notice of the public hearing that documents that the notice was published in a newspaper having general circulation in the community where the adult education charter school is planned at least three (3) weeks before the date of the public hearing;

(6) Comprehensive plan of how the adult education charter school will meet the industry needs for a sufficiently trained workforce in the state;

(7) Strategy for engaging the community, including business leaders, in carrying out the goals and objectives of the adult education charter school;

(8) Description of the proposed performance criteria that will be used during the initial five-year period of the charter to measure the progress of the adult education charter school in meeting the industry needs for a sufficiently trained workforce in the state;

(9) Detailed budget and governance plan for the operation of the adult education charter school; and

(10) List of any specific state laws or rules of the State Board of Education from which the adult education public charter wishes to be exempt with an explanation of why the exemption is needed.

History. Acts 2015, No. 1200, § 2; inserted “public” in (b)(2)(A); and added 2019, No. 960, § 1. (b)(2)(C).

Amendments. The 2019 amendment

6-23-1002. Authorization for adult education public charter.

The authorizer shall review an application for an adult education public charter school and may approve an application that:

(1) Provides an acceptable plan for meeting the industry needs for a sufficiently trained workforce in the state;

(2) Includes a set of performance criteria objectives for the terms of the charter and the means for measuring the performance criteria objectives on a yearly basis;

(3) Includes a comprehensive strategy for engaging the community, including without limitation business leaders, in the process of meeting the goals and objectives of the adult education public charter;

(4) Includes an agreement to provide an annual report to the community that indicates the progress made by the adult education public charter school in meeting the performance criteria objectives during the previous year; and

(5) Includes an appropriate budget and governance plan.

History. Acts 2015, No. 1200, § 2; lot program” following “school”; in (3), 2019, No. 960, § 2. inserted “without limitation” and inserted

Amendments. The 2019 amendment, “adult education public”; inserted “public” in the introductory language, deleted “pi- in (4); and made a stylistic change.

6-23-1003. Resubmission of applications.

(a) The authorizer may allow an applicant to resubmit an application for an adult education public charter school if the original application was, in the opinion of the authorizer, deficient in one (1) or more respects.

(b) The Division of Elementary and Secondary Education may provide technical assistance to an adult education public charter school applicant in the creation or modification of its application.

History. Acts 2015, No. 1200, § 2; 2019, No. 910, § 1754; 2019, No. 960, § 3.
Amendments. The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b).

The 2019 amendment by No. 960 inserted “public” in (a) and (b); and made stylistic changes.

6-23-1004. Enrollment in an adult education charter school.

- (a) An approved adult education charter school shall have an enrollment cap of no more than three hundred fifty (350) students.
- (b) A person who is at least nineteen (19) years of age may enroll in an adult education charter school if the person has:

(1) Not earned a high school diploma; and

(2) Failed to complete the requirements for high school graduation.

History. Acts 2015, No. 1200, § 2.

6-23-1005. Funding.

- (a) Funding for an adult education charter school shall not be provided through the Public School Fund.
- (b) Funding for an adult education charter school may come from public or private sources, including from the eligible entity that operates an adult education charter school.

History. Acts 2015, No. 1200, § 2.

6-23-1006. Charter renewal.

The authorizer may renew the charter of an adult education charter school on a one-year or multiyear basis.

History. Acts 2015, No. 1200, § 2.

6-23-1007. Reporting.

The Division of Elementary and Secondary Education shall report to the Senate Committee on Education and the House Committee on Education by December 1 each year concerning:

- (1) Evaluations of any adult education charter schools operating under this subchapter in the state, including the impact on meeting industry needs and addressing the workforce needs in the state; and
- (2) Recommendations regarding the abolition, expansion, or modifications of the subchapter.

History. Acts 2015, No. 1200, § 2; 2019, No. 910, § 1755.
Amendments. The 2019 amendment

substituted “Division of Elementary and Secondary Education” for “Department of Education” in the introductory language.

6-23-1008. Rules.

(a) The State Board of Education may adopt rules for adult education public charter schools, including without limitation rules that address:

- (1) Industry needs in the state;
- (2) Standardized secondary exit-level assessment instruments appropriate for assessing adult education charter school program participants who successfully complete high school curriculum requirements, including the level of satisfactory performance;
- (3) Reporting requirements for adult education charter schools; and
- (4) Eligibility requirements and procedures.

(b) The state board shall adopt a rule establishing the minimum graduation requirements for an adult education charter school to issue a high school diploma that substantially meets or exceeds the basic graduation competencies in core subjects expected by the state board for public school students.

History. Acts 2015, No. 1200, § 2.

CHAPTER 24**ETHICAL GUIDELINES AND PROHIBITIONS****SECTION.**

- 6-24-101. General policy.
- 6-24-102. Definitions.
- 6-24-103. Compliance with other laws.
- 6-24-104. General prohibition.
- 6-24-105. School district boards of directors.
- 6-24-106. Administrators.
- 6-24-107. Employees.
- 6-24-108. Reimbursement of expenses.
- 6-24-109. Emergency purchases.
- 6-24-110. General ethical standards for nonemployees.
- 6-24-111. Restrictions on employment of present and former administrators.

SECTION.

- 6-24-112. Gratuities and kickbacks.
- 6-24-113. Awards and grants.
- 6-24-114. Administrative remedies applicable to administrators and employees.
- 6-24-115. Criminal penalties.
- 6-24-116. Request for review of transactions.
- 6-24-117. Board position vacant upon conviction.
- 6-24-118. Enforcement.
- 6-24-119. Rules.
- 6-24-120. [Repealed.]

Cross References. Ethics and conflicts of interest, § 21-8-101 et seq.

Effective Dates. Acts 2005, No. 1381, § 4: Mar. 30, 2005. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that public educational entities will need to have sufficient time to hire personnel necessary for the upcoming school year; that public educational entities and employees need clarity in the law to ensure their ability to enter into contracts; and that this act is immediately necessary

because public educational entities will be entering into employment contracts on May 1 for the 2005-2006 school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor

and the veto is overridden, the date the last house overrides the veto.”

Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the state’s constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the

Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-24-101. General policy.

(a) It is the policy of the state to promote and balance the objective of protecting integrity and facilitating the recruitment and retention of personnel needed by public educational entities.

(b) All board members, administrators, and employees, as defined herein, shall carry out all official duties for the benefit of the people of the community and the State of Arkansas and shall abide by the provisions of this chapter.

(c) It is the specific intent of this chapter to prohibit self-dealing in transactions between public educational entities and board members, administrators, or employees.

History. Acts 2001, No. 1599, § 1.

6-24-102. Definitions.

Unless otherwise specifically stated in this subchapter, the term:

(1) “Administrator” means any superintendent or assistant superintendent or his or her equivalent, school district treasurer, business manager, or other individual directly responsible for entity-wide purchasing;

(2) “Board” means a local school district board of directors or other governing body of a public educational entity;

(3) "Board member" means any board member, director, or other member of a governing body of a public educational entity;

(4) "Board of Education" means the State Board of Education;

(5) "Commodities" means all supplies, goods, material, equipment, computers, software, machinery, facilities, personal property, and services, other than personal and professional services, purchased for or on behalf of a public educational entity;

(6) "Contract" means any transaction or agreement for the purchase, lease, transfer, or use of real property or personal property and personal or professional services of an independent contractor, including, but not limited to, motor vehicles, equipment, commodities, materials, services, computers or other electronics, construction, capital improvements, deposits, and investments;

(7) "Directly" or "directly interested" means receiving compensation or other benefits personally or to an individual's household from the person, business, or entity contracting with the public educational entity;

(8) "Emergency purchase" means purchases mandated by unforeseen and unavoidable circumstances in which human life, health, or public property is in immediate jeopardy and the expenditure is necessary to preserve life, health, or public property;

(9) "Employee" means a full-time employee or part-time employee of a public educational entity;

(10) "Employment contract" means an agreement or contract between an employer and an employee in which the terms and conditions of the employment are provided;

(11) "Family" or "family members" means:

(A) An individual's spouse;

(B) Children of the individual or children of the individual's spouse;

(C) The spouse of a child of the individual or the spouse of a child of the individual's spouse;

(D) Parents of the individual or parents of the individual's spouse;

(E) Brothers and sisters of the individual or brothers and sisters of the individual's spouse;

(F) Anyone living or residing in the same residence or household with the individual or in the same residence or household with the individual's spouse; or

(G) Anyone acting or serving as an agent of the individual or as an agent of the individual's spouse;

(12)(A) "Financial interest" in a business or other entity means:

(i) Ownership of more than a five percent (5%) interest;

(ii) Holding a position as an officer, director, trustee, partner, or other top level management; or

(iii) Being an employee, agent, independent contractor, or having any other arrangement in which the individual's compensation is based in whole or in part on transactions with the public educational entity.

(B) “Financial interest” does not include:

(i) The ownership of stock or other equity holdings in any publicly held company; or

(ii) Clerical or other similar hourly compensated employees;

(13) “Gratuity” means a payment, loan, subscription, advance, deposit of money, travel, services, or anything having a present market value of one hundred dollars (\$100) or more unless consideration of substantially equal or greater value is received;

(14) “Indirectly” or “indirectly interested” means that a family member, business, or other entity in which the individual or a family member has a financial interest will receive compensation or benefits;

(15) “Initially employed” means:

(A) Employed in either an interim or permanent position for the first time or following a severance in employment with the school district; or

(B) A change in the terms and conditions of an existing contract, excluding:

(i) Any renewal of a teacher contract under § 6-17-1506;

(ii) Renewal of the contract of an employee in a nonlicensed personnel position that is required by law; or

(iii) Movement of an employee on the salary schedule that does not require board action; and

(16)(A) “Public educational entity” means Arkansas public school districts, charter schools, education service cooperatives, or any publicly supported entity having supervision over public educational entities.

(B) “Public educational entity” does not include institutions of higher education.

History. Acts 2001, No. 1599, § 2; 2005, No. 1381, § 1; 2007, No. 617, § 30; 2013, No. 608, § 1; 2013, No. 1138, § 70; 2021, No. 544, § 54.

Amendments. The 2021 amendment repealed former (5).

6-24-103. Compliance with other laws.

Nothing in this chapter alters or diminishes other statutory or regulatory requirements regarding purchasing, contracting, bidding, disposition of property, or other transactions with public educational entities.

History. Acts 2001, No. 1599, § 3.

6-24-104. General prohibition.

(a) No board member, administrator, or employee shall knowingly use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others.

(b) While serving as a board member, administrator, or employee, an individual shall not accept employment, contract, or engage in any

public or professional activity that a reasonable person would expect might require or induce him or her to disclose any information acquired by the member by reason of his or her official position that is declared by law or rule to be confidential.

(c) No board member, administrator, or employee shall knowingly disclose any confidential information gained by reason of his or her position, nor shall the member knowingly otherwise use such information for his or her personal gain or benefit.

(d) Nothing in this chapter prohibits board members, administrators, or employees of public educational entities from donating services or property to a public educational entity.

History. Acts 2001, No. 1599, § 4;
2019, No. 315, § 315.

Amendments. The 2019 amendment substituted “rule” for “regulation” in (b).

6-24-105. School district boards of directors.

(a) **GENERAL PROHIBITION.** Except as otherwise provided, it is a breach of the ethical standards of this chapter for a board member to contract with the public educational entity the member serves if the board member has knowledge that he or she is directly or indirectly interested in the contract.

(b) **EMPLOYMENT OF FAMILY MEMBERS.**

(1)(A)(i) A board member’s family member may not be initially employed by the public educational entity the member serves during the member’s tenure of service on the local board for compensation in excess of five thousand dollars (\$5,000) unless the Commissioner of Elementary and Secondary Education issues a letter of exemption and approves the employment contract based on unusual and limited circumstances.

(ii) The determination of unusual and limited circumstances shall be at the sole discretion of the commissioner and may be further defined by rule of the State Board of Education.

(B) A family member of a school district board member who was employed by the public educational entity during the school year immediately preceding the election of the board member may continue employment with the public educational entity under the same terms and conditions of the previously executed contract and any renewal of the contract under § 6-17-1506.

(C) Subject to the local board’s written policy, a qualified family member of a board member may be employed as a substitute teacher, substitute cafeteria worker, or substitute bus driver for a period of time not to exceed a total of thirty (30) days per fiscal year for the public educational entity served by the board member.

(2)(A)(i) No employment contract that is prohibited under subdivision (b)(1) of this section is valid or enforceable by any party to the employment contract until approved in writing by the commissioner.

(ii) The commissioner’s approval of an employment contract may include restrictions and limitations that are by this subsection incorporated as terms or conditions of the contract.

(B) Excluding any renewal of a contract under § 6-17-1506, any change in the terms or conditions of an employment contract, a promotion, or a change in employment status for a family member of a school district board member employed by a public educational entity that will result in an increase in compensation of more than two thousand five hundred dollars (\$2,500) must be approved in writing by the commissioner before any change in the terms or conditions of the employment contract, promotion, or changes in employment status are effective, valid, or enforceable.

(c) EXCEPTIONS.

(1) BOARD APPROVAL.

(A)(i) In unusual and limited circumstances, a public educational entity's board may approve a contract, but not an employment contract, between the public educational entity and the board member or the board member's family if the board determines that the contract is in the best interest of the public educational entity.

(ii) In unusual and limited circumstances, a public educational entity's board may approve an employment contract as provided in this section.

(B)(i) The approval by the public educational entity's board shall be documented by written resolution after fully disclosing the reasons justifying the contract or employment contract in an open meeting.

(ii) The resolution shall state the unusual and limited circumstances necessitating the contract or employment contract and shall document the restrictions and limitations of the contract or employment contract.

(C) If any proposed contract or employment contract is with a family member of a board member or a board member directly or indirectly interested in the proposed contract or employment contract, then the board member shall leave the meeting until the voting on the issue is concluded, and the absent board member shall not be counted as having voted.

(2) INDEPENDENT APPROVAL.

(A)(i) If it appears the total transactions or contracts with the board member or a family member for a fiscal year total, or will total, ten thousand dollars (\$10,000) or more, the superintendent or other chief administrator of the public educational entity shall forward the written resolution along with all relevant data to the commissioner for independent review and approval.

(ii) The written resolution and other relevant data shall be sent by certified mail, return receipt requested, or other method approved by the state board to assure that adequate notice has been received by the Department of Education and to provide a record for the school district board of directors sending the request for approval.

(B)(i) Upon review of the submitted data for any contract, including an employment contract as provided in subsection (b) of this section, the commissioner, within twenty (20) days of receipt of the resolution and other relevant data, shall approve or disapprove in writing the board's request.

(ii) The commissioner may request additional information or testimony before ruling on a request. If additional data are needed for a proper determination, the commissioner shall approve or disapprove the contract within twenty (20) days of receipt of the additional requested data.

(iii) If the commissioner does not respond to the public educational entity within the twenty-day period or request additional time or data for a proper review of the contract, the contract shall be deemed to be approved by the commissioner.

(C)(i) If approved, the commissioner shall issue an approval letter stating all relevant facts and circumstances considered and any restrictions or limitations pertaining to the approval.

(ii)(a) The commissioner may grant the approval for a particular transaction or contract, a series of related transactions or contracts, or employment contracts.

(b) However, approval shall not be granted for a period greater than two (2) complete and consecutive fiscal years, excluding employment contracts.

(D) No contract subject to the commissioner's review and approval shall be valid or enforceable until an approval letter has been issued by the commissioner or the commissioner fails to respond to the public educational entity within the time periods specified in this section.

(d) RECORDS. The department and the public educational entity shall maintain, under their respective record retention policies, a record and copy of all documentation relating to transactions or contracts with board members or their family members.

(e) PROVIDING FALSE OR INCOMPLETE INFORMATION. Any board member or other person knowingly furnishing false information or knowingly not fully disclosing relevant information necessary for a proper determination by the public educational entity or the commissioner shall be guilty of violating the provisions of this chapter.

History. Acts 2001, No. 1599, § 5;
2005, No. 1381, § 2; 2011, No. 878, § 1;
2013, No. 608, § 2; 2015, No. 846, § 32.

6-24-106. Administrators.

(a) GENERAL PROHIBITION.

(1) Except as otherwise provided, it is a breach of the ethical standards of this chapter for an administrator to contract with the public educational entity employing him or her if the administrator has knowledge that he or she is directly or indirectly interested in the contract.

(2) Except as otherwise provided, it is a breach of the ethical standards of this chapter for an administrator to contract with any public educational entity if the administrator has knowledge that he or she is directly interested in the contract.

(b) FAMILY MEMBERS AS EMPLOYEES.

(1) This chapter does not prohibit an administrator's family members from being employed by the public educational entity the administrator serves or any other public educational entity.

(2)(A) However, a member of an administrator's family or former spouse may not be initially employed as a disbursing officer of the public educational entity where the administrator is employed unless the public educational entity receives written approval from the Commissioner of Elementary and Secondary Education.

(B) Before issuing a written approval or denial, the commissioner shall request Arkansas Legislative Audit to review the internal controls, including the segregation of duties, present at the public educational entity.

(C) Arkansas Legislative Audit shall report its findings in writing to the commissioner.

(c) EXCEPTIONS.

(1) In unusual and limited circumstances and only with prior written approval from the commissioner, an administrator may contract with a public educational entity other than the public educational entity employing him or her.

(2) In unusual and limited circumstances and only with prior written approval from the commissioner, an administrator's family members may contract with a public educational entity employing the administrator.

(3)(A) An administrator seeking to contract with other public educational entities, or an administrator's family member seeking to contract with the public educational entity employing the administrator, shall first present the request, with all relevant facts and circumstances justifying approval, to the board currently employing the administrator at an open meeting.

(B)(i) After reviewing the request in an open meeting, the board may, by written resolution, approve the contract subject to approval by the commissioner.

(ii) A copy of the approval resolution and all relevant data shall be forwarded by the board president to the commissioner.

(iii) The written resolution and other relevant data shall be sent by certified mail, return receipt requested, or other method approved by the State Board of Education to assure that adequate notice has been received by the Division of Elementary and Secondary Education and to provide a record for the school district board of directors sending the request for approval.

(4)(A) Upon review of the submitted data, the commissioner shall, within twenty (20) days of receipt of the resolution and other relevant data, approve or disapprove in writing the board's request.

(B)(i) The commissioner may request additional information or testimony before ruling on a request.

(ii) If additional data is needed for a proper determination, the commissioner shall approve or disapprove the contract within twenty (20) days of receipt of the additional requested data.

(C) If the commissioner does not respond to the public educational entity within the twenty-day period or request additional time or data for a proper review of the contract, the contract shall be deemed to be approved by the commissioner.

(5)(A) If approved, the approval letter shall state all relevant facts and circumstances considered in the approval and shall state any restrictions or limitations of the approval.

(B) The commissioner may grant an approval for a particular transaction or a series of related transactions. No approval shall be granted for a period greater than two (2) complete and consecutive fiscal years.

(6) The division and the public educational entity shall maintain, under their respective record retention policies, a record and copy of all documentation relating to an exemption from the provisions of this chapter.

(7) A contract subject to this subsection is not valid until the commissioner:

(A) Approves the contract; or

(B) Fails to respond to the public educational entity within the time periods specified in this section.

(d) PROVIDING FALSE OR INCOMPLETE INFORMATION. Any administrator knowingly furnishing false information or knowingly not fully disclosing relevant information necessary for a proper determination by the public educational entity or the commissioner shall be guilty of violating the provisions of this chapter.

(e) "CONTRACT" DEFINED. For the purposes of this section, "contract" does not apply to employment contracts issued to an administrator of a public educational entity for administrative or other duties such as, but not limited to, teaching, bus driving, or sponsorship of clubs or activities.

(f) COMPENSATION FOR OFFICIATING ATHLETIC EVENTS. Nothing in this section prohibits administrators from receiving compensation for officiating school-sponsored athletic activities with any public educational entity.

(g) COMPENSATION FOR CONDUCTING SEMINARS. Nothing in this section prohibits administrators from receiving compensation for conducting seminars for, or making presentations to, public educational entities other than the public educational entity employing them.

History. Acts 2001, No. 1599, § 6; 2009, No. 376, § 47; 2011, No. 878, § 2; 2013, No. 608, § 3; 2015, No. 846, § 33; 2019, No. 910, §§ 1756-1758.

Amendments. The 2019 amendment substituted "Commissioner of Elementary

and Secondary Education" for "Commissioner of Education" in (b)(2)(A); and substituted "Division of Elementary and Secondary Education" for "Department of Education" in (c)(3)(B)(iii) and (c)(6).

6-24-107. Employees.

(a) **GENERAL PROVISION.** Except as otherwise provided, it is a breach of the ethical standards of this chapter for an employee to contract with the public educational entity employing him or her if the employee has knowledge that he or she is directly interested in the contract.

(b) **EXCEPTIONS.**

(1) **APPROVAL BY BOARD.**

(A) In unusual and limited circumstances, a public educational entity's board may approve a contract between the public educational entity and an employee if the board determines that the contract is in the best interest of the public educational entity.

(B)(i) The approval by the public educational entity's board shall be documented by written resolution after fully disclosing the reasons justifying the contract in an open meeting.

(ii) The resolution shall state the unusual circumstances necessitating the contract and shall document the restrictions and limitations of the contract.

(C) Any board member directly or indirectly interested in the proposed contract shall leave the meeting until the voting on the issue is concluded, and the absent member shall not be counted as having voted.

(2) **INDEPENDENT APPROVAL.**

(A)(i) If it appears that the total transactions with an employee for a fiscal year total, or will total, ten thousand dollars (\$10,000) or more, the superintendent or other chief administrator of the public educational entity shall forward the written resolution along with all relevant data to the Commissioner of Elementary and Secondary Education for independent review and approval.

(ii) The written resolution and other relevant data shall be sent by certified mail, return receipt requested, or other method approved by the State Board of Education to assure that adequate notice has been received by the Division of Elementary and Secondary Education and to provide a record for the school district board of directors sending the request for approval.

(B)(i) Upon review of the submitted data, the commissioner shall, within twenty (20) days of receipt of the resolution and other relevant data, approve or disapprove in writing the board's request.

(ii)(a) The commissioner may request additional information or testimony before ruling on a request.

(b) If additional data is needed for a proper determination, the commissioner shall approve or disapprove the contract within twenty (20) days of receipt of the additional requested data.

(iii) If the commissioner does not respond to the public educational entity within the twenty-day period or request additional time or data for a proper review of the contract, the contract shall be deemed to be approved by the commissioner.

(C)(i) If approved, the commissioner shall issue an approval letter stating all relevant facts and circumstances considered and any restrictions or limitations pertaining to the approval.

(ii)(a) The commissioner may grant the approval for a particular transaction or a series of related transactions.

(b) However, approval shall not be granted for a period greater than two (2) complete and consecutive fiscal years.

(D) No contract subject to the commissioner's review and approval shall be valid or enforceable until an approval letter has been issued by the commissioner or the commissioner fails to respond to the public educational entity within the time periods specified in this section.

(c) **DOCUMENTATION.** The division and the public educational entity shall maintain, under their respective record retention policies, a record and copy of all documentation relating to transactions with employees.

(d) **PROVIDING FALSE OR INCOMPLETE INFORMATION.** Any employee or other person knowingly furnishing false information or knowingly not fully disclosing relevant information necessary for a proper determination by the public educational entity or the commissioner shall be guilty of violating the provisions of this chapter.

(e) **"CONTRACT" DEFINED.** For the purposes of this section, the term "contract" does not apply to employment contracts issued to public educational entity employees or other transactions for the performance of teaching or other related duties such as, but not limited to, bus driving, sponsorship of clubs or activities, or working at school-sponsored events.

(f) **TECHNOLOGY EMPLOYEES.** All transactions involving the purchase, lease, acquisition, or other use of computers, software, copiers, or other electronic devices from family members of an employee responsible for establishing specifications or approving purchases of such equipment shall be approved according to the requirements of this section regarding the purchase from an employee with a direct interest in the transaction.

History. Acts 2001, No. 1599, § 7; 2011, No. 878, § 3; 2013, No. 608, § 4; 2015, No. 846, § 34; 2019, No. 910, §§ 1759, 1760.

Amendments. The 2019 amendment substituted "Commissioner of Elementary

and Secondary Education" for "Commissioner of Education" in (b)(2)(A)(i); substituted "Division of Elementary and Secondary Education" for "Department of Education" in (b)(2)(A)(ii); and substituted "division" for "department" in (c).

6-24-108. Reimbursement of expenses.

Nothing in this chapter prevents board members, administrators, or employees from being reimbursed by the appropriate public educational entity for necessary and documented travel or other job-related expenses.

History. Acts 2001, No. 1599, § 8.

6-24-109. Emergency purchases.

(a) The provisions of this chapter do not apply to emergency purchases.

(b) Emergency purchases shall only be used for the preservation of life, health, or public property, and shall not be used to substantially improve the condition of an asset before the emergency.

(c) Each public educational entity shall maintain records and copies of all documentation relating to and supporting a determination that transactions qualify as emergency purchases.

(d) Any person using emergency purchases to avoid the intent of this chapter shall be guilty of violating the provisions of this chapter.

History. Acts 2001, No. 1599, § 9.

6-24-110. General ethical standards for nonemployees.

Any effort by a nonemployee to influence any public educational entity board member, administrator, or employee to breach the standards of ethical conduct stated in this chapter is a breach of ethical standards and punishable under the criminal penalties set forth in this chapter.

History. Acts 2001, No. 1599, § 10.

6-24-111. Restrictions on employment of present and former administrators.

(a)(1) Unless written approval is granted by the Commissioner of Elementary and Secondary Education, it is a breach of the ethical standards of this chapter for administrators to be or become the employee, agent, or independent contractor of any party contracting with the public educational entity the administrators serve.

(2) The commissioner's approval letter shall be filed with and maintained by the public educational entity employing the administrator.

(b) Unless written approval is granted by the commissioner, it is a breach of the ethical standards of this chapter for administrators to engage in selling or attempting to sell commodities or services to the public educational entity they served or were employed by for one (1) year following the date employment or service ceased.

History. Acts 2001, No. 1599, § 11; substituted "Commissioner of Elementary and Secondary Education" for "Commissioner of Education" in (a)(1).
2021, No. 544, § 55.

Amendments. The 2021 amendment

6-24-112. Gratuities and kickbacks.

(a) It is a breach of the ethical standards of this chapter for any person to offer, give, or agree to give any board member, administrator, or employee a gratuity or an offer of employment in connection with any contract or transaction of a public educational entity.

(b) It is a breach of the ethical standards of this chapter for any board member, administrator, or employee to solicit, demand, accept, or agree to accept from another person or entity a gratuity or an offer of employment in connection with any contract or transaction of a public educational entity.

(c) It is a breach of the ethical standards of this chapter for any payment, gratuity, or offer of employment to be made by or on behalf of a person or an entity as an inducement for the award of a contract or transaction with a public educational entity.

(d) The State Board of Education shall issue specific rules regarding educational or work-related travel, conventions, seminars, and other benefits provided by vendors.

History. Acts 2001, No. 1599, § 12; deleted “and regulations” following “rules” 2019, No. 315, § 316.

in (d).

Amendments. The 2019 amendment

6-24-113. Awards and grants.

Nothing in this chapter prohibits administrators or employees of public educational entities from receiving monetary or other awards, grants, or benefits from entities generally recognized as providing benefits based upon exceptional skills or exemplary contributions to education.

History. Acts 2001, No. 1599, § 13.

6-24-114. Administrative remedies applicable to administrators and employees.

(a)(1) The Division of Elementary and Secondary Education may review alleged violations of this chapter. If the division reviews the allegations and the Commissioner of Elementary and Secondary Education determines that there is adequate evidence of a violation, the commissioner may refer the allegations to the State Board of Education for review.

(2) Upon the State Board of Education’s approval to review the alleged violation and after reasonable notice in writing to all parties, the State Board of Education may schedule a hearing to determine whether an administrator or employee has knowingly violated the provisions of this chapter.

(3) After presentation of all evidence, if the State Board of Education determines that the administrator or employee knowingly violated the provisions of this chapter, the State Board of Education may provide any or all of the following administrative remedies:

(A) Issue a letter of reprimand; or

(B) Suspend or revoke the administrator’s or teacher’s Arkansas teaching license for a definite period, or permanently.

(b)(1) After reasonable notice and opportunity for a hearing, a board of a public educational entity may take appropriate administrative

remedies against an administrator or employee that has allegedly violated the provisions of this chapter.

(2) If an administrator or employee of a public educational entity is charged by the prosecuting attorney for a possible violation of this chapter, the board of a public educational entity may, after reasonable notice and opportunity for a hearing, place the individual charged on leave, with or without pay, dismiss the individual, or provide any other proper administrative remedy.

(3) If the individual is dismissed by the board of a public educational entity due to charges being filed for an alleged violation of this chapter, any employment contracts with the public educational entity shall be deemed void from the date of the action of the board of a public educational entity.

History. Acts 2001, No. 1599, § 14; 2019, No. 910, § 1761.

Amendments. The 2019 amendment, in (a)(1), substituted “Division of Elementary and Secondary Education” for “Department of Education” in the first sen-

tence, and in the second sentence, substituted “division” for “department” and substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education”.

6-24-115. Criminal penalties.

(a) Any board member, administrator, employee, or nonemployee who shall knowingly violate the provisions of this chapter shall be guilty of a felony.

(b)(1) Upon pleading guilty or nolo contendere to or being found guilty of violating this chapter, the court shall order restitution to the public educational entity.

(2) In addition, the court may fine the violator in any sum not to exceed the greater of ten thousand dollars (\$10,000) or double the dollar amounts involved in the transactions, sentence the violator to prison for not more than five (5) years, or impose both a fine and imprisonment.

History. Acts 2001, No. 1599, § 15.

6-24-116. Request for review of transactions.

At the request of a board of a public educational entity, the executive administrator at a public educational entity, the Commissioner of Elementary and Secondary Education, or the Legislative Joint Auditing Committee, the appropriate prosecuting attorney shall review contracts or transactions for compliance with the provisions of this chapter.

History. Acts 2001, No. 1599, § 16; 2003, No. 670, § 1; 2021, No. 544, § 56.

Amendments. The 2021 amendment

substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education”.

6-24-117. Board position vacant upon conviction.

If a board member is found guilty of violating the provisions of this chapter, the board member shall immediately cease to be a board member, the position is declared vacant, and a replacement shall be named as provided by law.

History. Acts 2001, No. 1599, § 17.

6-24-118. Enforcement.

(a) It shall be the duty and responsibility of the prosecuting attorneys to supervise compliance with this chapter and prosecute persons who violate this chapter.

(b) If the prosecuting attorney fails or refuses to enforce this chapter when the facts are known by the prosecuting attorney, or are called to his or her attention, the Attorney General or any citizen of this state may bring mandamus proceedings to compel the prosecuting attorney to perform his or her duties.

(c) All criminal actions related to alleged violations of this chapter shall be filed in circuit court and shall be subject to the criminal rules and procedures of this state.

History. Acts 2001, No. 1599, § 18.

6-24-119. Rules.

In order to administer the provisions of this chapter, the State Board of Education shall adopt rules consistent with the provisions and intent of this chapter.

History. Acts 2001, No. 1599, § 19; 2019, No. 315, § 317.

Amendments. The 2019 amendment

deleted “and regulations” following “rules” in the section heading and in the section.

6-24-120. [Repealed.]

Publisher’s Notes. This section, concerning penalties, was repealed by Acts 2009, No. 1469, § 24. The section was

derived from Acts 2003, No. 1738, § 6; 2007, No. 617, § 31.

CHAPTER 25**PUBLIC SCHOOL LIBRARY MEDIA AND TECHNOLOGY ACT****SECTION.**

6-25-101. Legislative intent.

6-25-102. Title.

6-25-103. Library media services program — Definition.

6-25-104. Library media specialist.

SECTION.

6-25-105. Establishment of guidelines for selection, removal, and retention of materials.

6-25-106. Provision of resources.

6-25-101. Legislative intent.

(a) It is the intent of the General Assembly to articulate the functions served by each of the components of a school library media services program.

(b) The General Assembly is committed to the development and improvement of strong library media programs in all schools.

(c) It is the intent of the General Assembly that library media specialists be given time to fulfill their responsibilities under this subchapter.

History. Acts 2003, No. 1786, § 1.

6-25-102. Title.

This chapter shall be known and may be cited as the “Public School Library Media and Technology Act”.

History. Acts 2003, No. 1786, § 2.

6-25-103. Library media services program — Definition.

(a) A “library media services program” means a program of information and media services in schools delivered by a library media specialist whose job includes duties as:

(1) An information specialist whose primary job function is to:

(A) Provide resources available to patrons through a systematically developed collection within the school and through access to resources outside the school;

(B) Provide assistance to patrons in identifying, locating, and interpreting information housed in and outside the library media center;

(C) Provide learning opportunities related to new technologies, use, and production of a variety of media formats; and

(D)(i) Provide instruction in the use of the library media center.

(ii) Elementary class sessions for a library media specialist shall be limited as provided under subdivision (b)(1) of this section;

(2) An instructional consultant whose primary job function is to:

(A) Participate in building district, department, and grade-level curriculum development and assessment projects;

(B) Provide professional development in new and emerging technologies, use of appropriate technologies, incorporation of technology into the instructional program, and in the laws and policies pertaining to the use and communication of ideas and information, including copyright law; and

(C) Keep patrons informed of new acquisitions of software and hardware and instruct patrons in their optimal use; and

(3) A teacher of information and technology skills whose primary job function is to:

(A) Provide assistance in the use of technology to access information and networks that will enhance access to resources;

(B) Develop and implement a plan that ensures that skills are taught in a logical sequence for kindergarten through grade twelve (K-12);

(C) Provide expertise and instruction in the use of electronic retrieval systems such as electronic card catalogues and computer-generated bibliographies; and

(D) Provide instruction in the use of the library media center.

(b)(1) No less than one-third ($\frac{1}{3}$) of the library media specialist's time shall be spent as an information specialist, allowing time for administrative tasks such as ordering books and materials, processing items for usage, planning finances and accountability, organizing, directing, and evaluating the library media program, and other management duties.

(2) Class size shall be as set forth in the Standards for Accreditation of Arkansas Public Schools and School Districts.

History. Acts 2003, No. 1786, § 3;
2005, No. 1962, § 13.

6-25-104. Library media specialist.

(a)(1) Only trained and certified library media services program personnel shall be assigned to carry out duties of the library media specialist.

(2) Library media clerks may carry out clerical duties supervised by the library media specialist.

(b) Duties that interfere with library media center responsibilities may not be assigned outside the library media center for the library media specialist.

(c) Equipment and personnel shall be available for the developmentally appropriate production of a wide range of media for students and faculty.

History. Acts 2003, No. 1786, § 4.

6-25-105. Establishment of guidelines for selection, removal, and retention of materials.

(a) Media centers shall have written policies to establish guidelines for the selection, removal, and retention of materials.

(b) The school district shall have a written policy for addressing challenged material.

History. Acts 2003, No. 1786, § 5.

6-25-106. Provision of resources.

The school media collection should provide resources that contribute to lifelong learning while accommodating a wide range of differences in instructional methods, interest, and capabilities.

History. Acts 2003, No. 1786, § 6.

CHAPTER 26

ARKANSAS TEACHER HOUSING DEVELOPMENT ACT

[Repealed.]

SECTION.
6-26-101 — 6-26-305. [Repealed.]

6-26-101 — 6-26-305. [Repealed.]

Publisher’s Notes. This chapter, concerning the Arkansas Teacher Housing Development Act, was repealed by identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 4. The chapter was derived from the following sources:

6-26-101. Acts 2003 (2nd Ex. Sess.), No. 39, § 1.	6-26-201. Acts 2003 (2nd Ex. Sess.), No. 39, § 1; 2005, No. 2044, § 3.
6-26-102. Acts 2003 (2nd Ex. Sess.), No. 39, § 1; 2013, No. 1138, § 71.	6-26-202. Acts 2003 (2nd Ex. Sess.), No. 39, § 1.
6-26-103. Acts 2003 (2nd Ex. Sess.), No. 39, § 1.	6-26-301. Acts 2003 (2nd Ex. Sess.), No. 39, § 1.
6-26-104. Acts 2003 (2nd Ex. Sess.), No. 39, § 1.	6-26-302. Acts 2003 (2nd Ex. Sess.), No. 39, § 1.
	6-26-303. Acts 2003 (2nd Ex. Sess.), No. 39, § 1; 2013, No. 1138, § 72.
	6-26-304. Acts 2003 (2nd Ex. Sess.), No. 39, § 1; 2009, No. 376, § 48.
	6-26-305. Acts 2003 (2nd Ex. Sess.), No. 39, § 1.

CHAPTER 27

EDUCATIONAL ACCESS FOR MILITARY CHILDREN

[Repealed.]

SECTION.
6-27-101 — 6-27-113. [Repealed.]

6-27-101 — 6-27-113. [Repealed.]

Publisher’s Notes. This chapter, concerning educational access for military children, was repealed by Acts 2013, No. 146, § 2. The chapter was derived from the following sources:

6-27-101. Acts 2009, No. 314, § 1.	6-27-106. Acts 2009, No. 314, § 1.
6-27-102. Acts 2009, No. 314, § 1.	6-27-107. Acts 2009, No. 314, § 1.
6-27-103. Acts 2009, No. 314, § 1.	6-27-108. Acts 2009, No. 314, § 1.
6-27-104. Acts 2009, No. 314, § 1.	6-27-109. Acts 2009, No. 314, § 1.
6-27-105. Acts 2009, No. 314, § 1.	6-27-110. Acts 2009, No. 314, § 1.
	6-27-111. Acts 2009, No. 314, § 1.
	6-27-112. Acts 2009, No. 314, § 1; 2011, No. 981, § 15.
	6-27-113. Acts 2009, No. 314, § 1; 2011, No. 1223, § 5.

CHAPTER 28

ARKANSAS MILITARY CHILD SCHOOL TRANSITIONS
ACT OF 2021

SUBCHAPTER.

1. ARKANSAS MILITARY CHILD SCHOOL TRANSITIONS.
2. STATE COORDINATION.

A.C.R.C. Notes. Acts 2021, No. 1031, § 1, provided: "Legislative findings and intent. The General Assembly finds that:

"(1) The Arkansas Military Child School Transitions Act of 2021 will strengthen the state's direction for establishing and maintaining effective school transition programs in support of dependents of uniformed services families who may change states and school districts six (6) or more times during their kindergarten through twelfth grade (K-12) years during their parents' service;

"(2) This legislation consolidates all relevant state and interstate compact guidance relating to state and school district support for smooth school transitions established by this act;

"(3) While the changes are primarily structural, this act provides an added provision to permit enrollment in distance and digital education coursework for inbound transitioning students;

"(4) Virtual enrollment is a United States Department of Defense priority

that enables seamless transitions to new curricula and prevents untimely disruptions to high school graduations of children of military families;

"(5) This act extends eligibility to dependent children of dual status military technicians who are required, as a condition of employment, to serve in a military capacity in the reserve component units in which they also serve in a civilian capacity;

"(6) Dual status military technicians are liable for directed reassignments similar to active duty service members, and may also be mobilized and deployed similar to all active duty service members; and

"(7) This act extends eligibility to dependent children of traditional Guardsmen and reservists who are relocating to Arkansas to take advantage of a civilian employment opportunity or to assume a position in an Arkansas-based reserve component unit."

SUBCHAPTER 1 — ARKANSAS MILITARY CHILD SCHOOL TRANSITIONS

SECTION.

- 6-28-101. Title.
- 6-28-102. Legislative findings.
- 6-28-103. Purpose.
- 6-28-104. Definitions.
- 6-28-105. Application.
- 6-28-106. State direction and coordination.
- 6-28-107. Transfer of education records and enrollment.
- 6-28-108. Advance enrollment.
- 6-28-109. Virtual course enrollment.
- 6-28-110. Immunizations.

SECTION.

- 6-28-111. Grade placement.
- 6-28-112. Course and education program placement.
- 6-28-113. Special education services.
- 6-28-114. Student excused absence.
- 6-28-115. Graduation — Testing.
- 6-28-116. New student reception programs — Military family education coordinators.
- 6-28-117. Reporting enrollment of children of members of the uniformed services.

6-28-101. Title.

This chapter shall be known and may be cited as the “Arkansas Military Child School Transitions Act of 2021”.

History. Acts 2021, No. 1031, § 2.

6-28-102. Legislative findings.

The General Assembly finds that:

(1) Maintaining a positive education trajectory is challenging for children of uniformed services families due to their parents’ frequent reassignments and deployments, which interrupt academic progress, social growth, and achievement;

(2) Ensuring a quality, effective education for their children is the top concern of military families, which translates to a personnel readiness issue for the uniformed services when service members elect to separate to ensure education stability for their children;

(3) Countering disruptions adversely impacting successful school transitions is best led by advance notice of a child of a military family’s pending transition, swift transfer of education records, well-trained school administrators assessing those records, and the collaborative building of an effective future curriculum plan with military service families;

(4) Consistent application of qualification and eligibility guidelines provide the basis for a child of a military family’s effective educational experience;

(5) Advanced access to interscholastic and club sports and other extracurricular activities is essential to social development and reinforcing a welcoming reception at new schools;

(6) The uniform collection and sharing of information regarding the numbers of children of military families transitioning helps decision makers craft programs and make the well-informed decisions that bolster broad education success for children of military families;

(7) Cooperation and informed collaboration among the educational system, parents and legal guardians, and children of military families are essential to the academic success of a child of a military family;

(8) Coordination of state and public school district efforts to serve the purposes and carry out the obligations of this chapter is best met through a consolidated state coordinating body to orchestrate collaborative efforts of the state, public school districts, installation commands, and military service families;

(9) Arkansas is recognized for its establishment and exercise of local programs that facilitate successful school transfers on behalf of children of military families that provide public school districts with the resources, methodologies, and personnel training to support effective transitions by all children of military families;

(10) Consolidating guidance and administration of programs established by the Division of Elementary and Secondary Education and

public school districts ensures smooth transitions for children of military families; and

(11) To best meet the needs of children of military families requires periodic needs assessment across the state and the potential modification, expansion, or extension of programs.

History. Acts 2021, No. 1031, § 2.

6-28-103. Purpose.

(a) The purpose of this chapter is to:

(1) Maximize the potential for effective school transitions by children of uniformed services families through provisions of this chapter administered by the Division of Elementary and Secondary Education and implemented by public school districts; and

(2) Consolidate state and Interstate Compact on Educational Opportunity for Military Children, § 6-4-301 et seq., guidance.

(b) The kindergarten through grade twelve (K-12) success of students of military families is challenged by frequent relocations due to base reassignments and deployments of their parents or legal guardians.

(c) To better meet the needs of children of Arkansas-based active and reserve component uniformed services families, this chapter expands and extends the application of the provisions of the Interstate Compact on Educational Opportunity for Military Children, § 6-4-301 et seq., by:

(1) Facilitating the timely enrollment of children of military families and ensuring the children of military families are not placed at a disadvantage due to difficulty in the transfer of education records from a previous public school, including a public school in another state;

(2) Facilitating the placement process for children of military families so children of military families are not disadvantaged by variations in attendance requirements, scheduling, lesson sequencing, grading, course content, and assessment;

(3) Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular activities;

(4) Facilitating the on-time graduation of children of military families;

(5) Providing for the adoption and enforcement of administrative rules to implement this chapter;

(6) Providing for the uniform collection and sharing of information between and among public school districts; and

(7) Promoting flexibility and cooperation between the educational system, military installation leaders and their commands, parents and legal guardians, and children of military families to achieve educational success for the children of military families.

History. Acts 2021, No. 1031, § 2.

6-28-104. Definitions.

As used in this chapter:

(1) “Activated reserve components” means members of the reserve component of the uniformed services who have received a notice of intent to mobilize or deploy under Title 10 of the United States Code, Title 32 of the United States Code, or state mobilization to active duty;

(2) “Active duty” means full-time duty status in the active, uniformed services of the United States, including without limitation members of the National Guard and reserve components of the uniformed services on active duty orders under 10 U.S.C. §§ 1209 and 1210 or 42 U.S.C. § 204, as they existed on January 1, 2021;

(3) “Deployment” means the period of time six (6) months before a member of the uniformed services’ departure from his or her home or duty station on military orders through six (6) months after return to his or her home station;

(4) “Dual status military technician” means a federal civilian employee who is:

(A) Employed under 5 U.S.C. § 3101 or 32 U.S.C. § 709(b);

(B) Required as a condition of his or her employment to maintain membership in the Selected Reserve; and

(C) Assigned to a civilian position as a technician in the organizing, administering, instructing, or training of the Selected Reserve or in the maintenance and repair of supplies or equipment issued to the Selected Reserve;

(5) “Education record” means an official record, file, or data directly related to a student and maintained by a public school or public school district, including without limitation a record encompassing all the material kept in a student’s cumulative folder such as:

(A) General identifying data;

(B) Records of attendance and of academic work completed;

(C) Records of achievement and results of evaluative tests;

(D) Health data;

(E) Disciplinary status;

(F) Test protocols; and

(G) Individualized education programs;

(6)(A) “Extracurricular activity” means a voluntary activity sponsored by a public school or public school district or an organization sanctioned by a public school district.

(B) “Extracurricular activity” includes without limitation preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities;

(7) “Military installation” means, for purposes of this chapter:

(A) United States Department of Defense installations, which shall include:

(i) Little Rock Air Force Base;

(ii) Pine Bluff Arsenal; and

(iii) Camp Pike Armed Forces Reserve Complex; and

- (B) Arkansas installations, which shall include:
 - (i) Camp Joseph T. Robinson Maneuver Training Center;
 - (ii) Ebbing Air National Guard Base; and
 - (iii) Fort Chaffee Joint Maneuver Training Center;
- (8)(A) "Public school" means a state-supported school or open-enrollment public charter school serving students in prekindergarten or kindergarten through grade twelve (K-12) in Arkansas.
 - (B) "Public school" includes without limitation:
 - (i) Alternative learning environments;
 - (ii) The Arkansas School for the Blind;
 - (iii) The Arkansas School for the Deaf; and
 - (iv) The Arkansas School for Mathematics, Sciences, and the Arts;
- (9) "Receiving district" means a public school district to which a child of a uniformed services member transitions;
- (10) "Rule" means:
 - (A) A written statement that is of general applicability that implements, interprets, or prescribes a policy; or
 - (B) An organizational, procedural, or practice requirement promulgated under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., or any successor law, and includes the amendment, repeal, or suspension of an existing rule;
- (11) "Sending district" means the public school district from which a child of a uniformed services member transitions;
- (12) "Student" means the dependent child of a uniformed services member for whom a public school or public school district receives public funding and who is enrolled in a public school;
- (13) "Traditional member of the National Guard or federal reserves" means an active member of the Selected Reserve subject to mobilization and deployment for which he or she attends monthly and annual training periods;
- (14) "Transition" means the:
 - (A) Formal and physical process of transitioning from public school to public school; or
 - (B) Period of time in which a student moves from a sending district to a receiving district;
- (15) "Uniformed services" means the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Space Force, United States Coast Guard, the National Oceanic and Atmospheric Administration Commissioned Officer Corps, the United States Commissioned Corps of the Public Health Service, and the state and federal reserve components of each of these bodies; and
- (16) "Veteran" means an individual who served in the uniformed services and who was discharged or released from the uniformed services under conditions other than dishonorable.

6-28-105. Application.

(a) This chapter shall apply to dependent children of:

(1) Members of the active duty and activated reserve components of the uniformed services;

(2) Members or veterans of the uniformed services who were severely injured in the line of duty and are medically discharged or retired for a period of one (1) year following the medical discharge or retirement;

(3) Members of the uniformed services who die while on active duty or as a result of injuries sustained while on active duty for a period of one (1) year following the death;

(4) Dual status military technicians; and

(5) Traditional members of the National Guard and reserve components of the United States Armed Forces who are relocating to the state for employment or to serve as a member of an Arkansas-based reserve component unit.

(b) This chapter shall not apply to the dependent children of:

(1) Inactive members of the National Guard and reserve components of the United States Armed Forces;

(2) Retired members of the uniformed services, except as provided under subdivision (a)(3) of this section; and

(3) Other United States Department of Defense personnel and other federal or state agency civilian and contract employees who are not considered members of the uniformed services.

(c)(1) This chapter includes provisions and extends application eligibility beyond the scope of the Interstate Compact on Educational Opportunity for Military Children, § 6-4-301 et seq.

(2) In complying with this chapter, sending districts and receiving districts may request the assistance of sending districts and receiving districts outside of the state to provide services to uniformed services families transferring to or from the state who are covered under this chapter but may not be covered under the interstate compact.

History. Acts 2021, No. 1031, § 2.

6-28-106. State direction and coordination.

(a) The Commissioner of Elementary and Secondary Education shall administer:

(1) This chapter; and

(2) The state's participation in and compliance with the Interstate Compact on Educational Opportunity for Military Children under § 6-4-301 et seq.

(b) There shall be created the Arkansas Council for Military Children, whose purpose is to, in collaboration with local military commands, assist state and local education agencies in the implementation of the provisions of this chapter and the interstate compact in order to eliminate barriers to educational success faced by children of military families.

(c) The State Board of Education shall promulgate rules to implement this chapter.

History. Acts 2021, No. 1031, § 2.

6-28-107. Transfer of education records and enrollment.

(a)(1) Upon receipt of the unofficial copies of a student's education records by a receiving district, and as soon as practicable, a receiving district shall preregister and provisionally place a student based on the information provided in the unofficial education records that is pending validation by the official records.

(2) If official copies of a student's education records cannot be released to a parent or legal guardian of a student for purposes of a transition under this chapter, then the custodian of the student's education records at the sending district shall prepare and furnish to the parent or legal guardian of the student and the receiving district a complete set of unofficial copies of the student's education records, which shall contain uniform information as determined by the Division of Elementary and Secondary Education.

(b)(1) Simultaneous with the enrollment and provisional placement of a student under this section, a receiving district shall request a student's official education records from the sending district.

(2) Upon receipt of a request under subdivision (b)(1) of this section, a sending district, if it is a district within the state, shall process and furnish a student's official education records within:

(A) Ten (10) days; or

(B) A reasonable time frame as established by division rules.

History. Acts 2021, No. 1031, § 2.

6-28-108. Advance enrollment.

(a)(1) Members of the uniformed services shall, as soon as possible, provide advance notice to public schools regarding the enrollment of a student under this chapter.

(2) When a public school receives notice from a military family under subdivision (a)(1) of this section, the public school shall treat the notice as a provisional enrollment and provide the student with materials regarding:

(A) Academic courses;

(B) Electives;

(C) Sports; and

(D) Other relevant information regarding the public school.

(3) A public school:

(A) Shall consider the anticipated date of enrollment of a student under subdivision (a)(1) of this section in light of:

(i) Class sizes;

(ii) Course conflicts; and

(iii) The availability of elective courses;

(B) May preregister a student in anticipation of the student's enrollment under subdivision (a)(1) of this section; and

(C) May seek waivers from the State Board of Education to accommodate a student under this section, including without limitation required class ratios.

(b)(1) A student under this section shall receive equitable access to academic courses.

(2)(A) A receiving district may enter academic course requests on behalf of an incoming student under this section based on the student's transcript of information sent by the student's family or the student's sending district.

(B) Special power of attorney relative to the guardianship of a student is sufficient for purposes of enrollment and all other actions requiring parental participation and consent.

(c)(1) A receiving district shall not charge local tuition to a student who transitions to the receiving district under this section and who has been placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

(2) A student who has been placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent may continue to attend the school in which he or she was enrolled while residing with the custodial parent.

(d) A receiving district shall ensure a student who transitions under this section has the opportunity to participate in extracurricular activities, regardless of application deadlines, and to the extent that the student is otherwise qualified.

History. Acts 2021, No. 1031, § 2.

6-28-109. Virtual course enrollment.

At the request of a military family, a receiving district may enroll an inbound transitioning child of a military family in virtual distance-learning or digital coursework, if available, to facilitate a smooth transition between the student's previous coursework and the curriculum best suited to ensure educational success in his or her new school.

History. Acts 2021, No. 1031, § 2.

6-28-110. Immunizations.

(a) A student shall furnish his or her required immunization records to a receiving district within thirty (30) days of enrolling in the receiving district or within such time as is reasonably determined under Division of Elementary and Secondary Education rules.

(b) For a series of immunizations, initial vaccinations shall be obtained within thirty (30) days or within such time as is reasonably determined under division rules.

History. Acts 2021, No. 1031, § 2.

6-28-111. Grade placement.

(a) A student shall enroll in a receiving district in the same grade level in which he or she was enrolled at the sending district, regardless of the student's age.

(b) A student who has completed a grade level in the sending district shall be eligible for enrollment in the next highest grade level at the receiving district, regardless of the student's age.

History. Acts 2021, No. 1031, § 2.

6-28-112. Course and education program placement.

(a) If the academic courses are offered and there is space available, when a student transitions under this chapter before or during a school year, the receiving district shall provisionally honor the placement of the student in academic courses based on the student's enrollment at the sending district and on educational assessments conducted at the sending district.

(b) Academic course placement includes without limitation enrollment in:

- (1) Honors courses;
- (2) The International Baccalaureate Diploma Programme;
- (3) Advanced Placement courses; and
- (4) Academic, technical, and career pathway courses.

(c) A receiving district may perform subsequent evaluations to ensure a student who transitions under this section has been appropriately placed in an academic course.

(d)(1) If the educational programs are offered and there is space available, when a student transitions under this section before or during a school year, the receiving district shall provisionally honor the placement of the student in educational programs based on the student's participation in educational programs at the sending district and on educational assessments conducted at the sending district.

(2) Educational programs include without limitation:

- (A) Gifted and talented programs; and
- (B) English as a second language courses.

(3) A receiving district may perform subsequent evaluations to ensure a student who transitions under this section has been appropriately placed in an educational program.

(e) A public school district may waive academic course or educational program requirements for students who transition to a receiving district under this chapter.

History. Acts 2021, No. 1031, § 2.

6-28-113. Special education services.

(a) A receiving district shall provisionally provide services to a student with disabilities under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., according to the student's existing individualized education program.

(b) A receiving district:

(1) Shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities under this section; and

(2) May perform subsequent evaluations to ensure a student who transitions under this chapter has been appropriately placed in the receiving district.

History. Acts 2021, No. 1031, § 2.

6-28-114. Student excused absence.

If a student's parent or legal guardian has been called to duty for, is on leave from, or has immediately returned from deployment, the student may be granted additional excused absences at the discretion of the public school in which he or she is enrolled.

History. Acts 2021, No. 1031, § 2.

6-28-115. Graduation — Testing.

(a) In order to ensure the on-time graduation of a student under this chapter, a receiving district shall:

(1) Waive specific courses that are required for graduation if similar coursework has been satisfactorily completed by a student under the control of another public school or public school district; and

(2) If a waiver for a specific course under subdivision (a)(1) of this section is denied, the receiving district shall provide:

(A) Justification for the denial; and

(B) An alternative means by which the student can complete the required coursework so that the student can graduate on time.

(b)(1) A receiving district shall accept results from:

(A) Exit or end-of-course exams that are required for graduation from the sending district;

(B) National norm-referenced achievement tests; or

(C) Alternative testing.

(2) A sending district shall award and a receiving district shall accept a diploma for a student under this chapter if the student:

(A) Meets the graduation requirements of the sending district;

(B) Transitions to the receiving district at the beginning of or during his or her senior year of high school; and

(C) Is deemed by the receiving district to be ineligible for graduation after all reasonable alternatives under this section have been considered.

History. Acts 2021, No. 1031, § 2.

6-28-116. New student reception programs — Military family education coordinators.

A public school with twenty (20) or more children of military families enrolled as students under this chapter or a public school district with at least three thousand (3,000) enrolled public school students shall:

(1) Incorporate into the policies of the public school district specific procedures that outline actions to take in support of students who are the children of military families who transition to and from the public school district; and

(2)(A) Designate in each public school district a military family education coordinator to serve as the primary point of contact for each child of a military family and his or her parent or legal guardian.

(B) The public school military family education coordinator shall have specialized knowledge regarding the educational needs of children of military families and the obstacles that children of military families face in obtaining an education.

(C) The Division of Elementary and Secondary Education shall supply relevant resources for the orientation and training of public school military family education coordinators under this section.

History. Acts 2021, No. 1031, § 2.

6-28-117. Reporting enrollment of children of members of the uniformed services.

The Division of Elementary and Secondary Education shall require a public school to report the enrollment of a student who is a child of a uniformed services family:

(1) In the Arkansas Public School Computer Network; or

(2) As established by rule if the public school or public school district does not report information through the Arkansas Public School Computer Network.

History. Acts 2021, No. 1031, § 2.

SUBCHAPTER 2 — STATE COORDINATION

SECTION.

6-28-201. State direction and coordination requirement.

6-28-202. Chair of the Arkansas Council for Military Children and Compact Commissioner for Arkansas.

6-28-203. Arkansas Council for Military Children — Membership.

SECTION.

6-28-204. Purpose and duties of Arkansas Council for Military Children.

6-28-205. Military family education liaison.

6-28-206. Immunity not affected.

6-28-201. State direction and coordination requirement.

The requirement for state coordination is established under § 6-28-106 and under § 6-4-302, Article VIII.

History. Acts 2021, No. 1031, § 2.

6-28-202. Chair of the Arkansas Council for Military Children and Compact Commissioner for Arkansas.

(a) Under this chapter, the Commissioner of Elementary and Secondary Education or his or her designee shall serve as both the:

- (1) Chair of the Arkansas Council for Military Children; and
- (2) Compact Commissioner for Arkansas.

(b) The chair shall lead the Arkansas Council for Military Children's collaborative support of state and public school district programs that carry out the provisions of this chapter.

(c) The Compact Commissioner for Arkansas is responsible for the administration and management of the state's participation in the Interstate Compact on Educational Opportunity for Military Children, § 6-4-301 et seq.

(d) In order to administer this chapter and supplementary agreements entered into by the state, or as further directed by law, the Division of Elementary and Secondary Education, or the State Board of Education and the chair and the Compact Commissioner for Arkansas, shall cooperate with all:

- (1) Departments, agencies, and officers of and in the government of this state; and
- (2) School districts and political subdivisions of this state.

History. Acts 2021, No. 1031, § 2.

6-28-203. Arkansas Council for Military Children — Membership.

(a) The Arkansas Council for Military Children created by § 6-28-106 shall be composed of the following members:

(1) The Commissioner of Elementary and Secondary Education or his or her designee, serving as Chair of the Arkansas Council for Military Children as established by § 6-28-202;

(2) The superintendent or his or her designee of the public school district with the greatest number of children of military families from each Arkansas congressional district as determined every four (4) years;

(3) Three (3) appointed at-large members, of which:

(A) One (1) member shall be appointed by the President Pro Tempore of the Senate;

(B) One (1) member shall be appointed by the Speaker of the House of Representatives; and

(C) One (1) member shall be appointed by the Governor;

(4) The charter school leader or his or her designee of the open-enrollment public charter school with the greatest number of children of military families as determined every four (4) years;

(5) A representative from each of the six (6) federal or state military installations as designated by the federal military installation commander or the Secretary of the Department of the Military, whichever is applicable;

(6) The Executive Director of the Arkansas Activities Association;

(7) The Chair of the Senate Committee on Education and the Chair of the House Committee on Education or designees from each of the committees; and

(8) The military family education liaison as established by § 6-28-205.

(b) Each appointed member under subdivision (a)(3) of this section shall:

(1) Have a background or interest in the education of military children;

(2) Be drawn from applicants that are from The Center for Exceptional Families, Arkansas Advocates for Children and Families, the Arkansas School Counselor Association, Inc., the Arkansas PTA, or other organizations with purposes that include the following:

(A) Child welfare;

(B) Child and family advocacy; and

(C) Special education;

(3)(A) Be appointed for a term of four (4) years.

(B) The terms for the initial appointees under subsection (a) of this section shall be staggered as determined by lot with:

(i) One (1) member serving a term of three (3) years;

(ii) One (1) member serving a term of four (4) years; and

(iii) One (1) member serving a term of five (5) years.

(C) Each succeeding appointment to the council shall be for a term of four (4) years, but the member appointed shall serve until the member's successor is appointed; and

(4)(A) If a vacancy occurs in an appointed position for any reason, the vacancy shall be filled by appointment by the official that made the appointment.

(B) The new appointee under subdivision (b)(4)(A) of this section shall serve for the remainder of the unexpired term.

History. Acts 2021, No. 1031, § 2.

6-28-204. Purpose and duties of Arkansas Council for Military Children.

(a) The purpose of the Arkansas Council for Military Children is to assist state and local education agencies, in collaboration with local military commands, in the promotion of the provisions of this chapter and the Interstate Compact on Educational Opportunity for Military

Children, § 6-4-301 et seq., in order to eliminate barriers to educational success faced by children of military families.

(b) The duties of the council are to:

(1) Assist state and local education agencies in the promotion and communication of the provisions of this chapter to inform public school district officials and uniformed services families;

(2) Assist state and local education agencies with the orientation and training of district military education coordinators on provisions of this chapter;

(3) Assist in the development and delivery of programs that inform uniformed services families of the need for self-identification in order to assure accurate accounting of children of uniformed services families enrolled in public school districts; and

(4) Assist in the development and administration of programs recognizing education agencies, public schools, and leaders who have established or contributed to programs facilitating successful school transitions of children of uniformed services families.

(c)(1) The council shall meet at least quarterly or more frequently as decided upon by a majority of its members.

(2) The Chair of the Arkansas Council for Military Children may call special meetings.

(d) The council may:

(1) Form committees to carry out its purpose; and

(2) Enlist volunteer participation by knowledgeable individuals and organizations to assist in development and execution of programs.

(e) A majority of all council members shall constitute a quorum at council meetings.

(f) At least annually, the council shall hold a virtual or in-person public forum in a military community to receive feedback from Arkansas uniformed services families regarding the effectiveness of the provisions of this chapter.

(g) The council may provide recommendations to the Division of Elementary and Secondary Education regarding without limitation suggested:

(1) Legislative initiatives amending this chapter; and

(2) Rules applicable to the division and public school districts under this chapter.

(h) The council shall provide annually a report to the Governor, the State Board of Education, the Senate Committee on Education, and the House Committee on Education that includes without limitation the following:

(1) Information regarding the achievements of the council and public school districts regarding the support provided to uniformed services families under this chapter;

(2) Details of the reports provided to the Military Interstate Children's Compact Commission;

(3) The number of children of military families in each public school district transferring to or from another state or federal education agency in the previous year;

(4)(A) Summaries of cases elevated to the chair for counsel and assistance in resolving cases involving:

- (i) The transition of children of military families that were elevated by military families;
- (ii) United States Department of Defense officials; or
- (iii) Public school districts.

(B) Information provided under subdivision (h)(4)(A) of this section shall be provided in compliance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, as it existed on January 1, 2021, and state student privacy laws;

(5) Information regarding training that is provided to public school district personnel with respect to this chapter;

(6) Details regarding plans for future engagement efforts with uniformed services families under this chapter; and

(7) Any other information deemed relevant by the council.

(i) The division shall provide administrative staff support to the Chair of the Arkansas Council for Military Children to assist with the achievement of the purpose and the administration of duties of the council.

History. Acts 2021, No. 1031, § 2.

6-28-205. Military family education liaison.

(a) The Commissioner of Elementary and Secondary Education shall designate a military family education liaison.

(b) The military family education liaison shall:

(1) Have specialized knowledge related to the:

(A) Educational needs of children of military families; and

(B) Obstacles that children of military families face in obtaining an education;

(2) Serve as a member of the Arkansas Council for Military Children; and

(3) Have duties as defined by the Chair of the Arkansas Council for Military Children, which shall include without limitation:

(A) Assisting the chair and the council in the administration of this chapter;

(B) Facilitating school transitions of children of military families; and

(C) Assisting in the orientation and training of public school district military family education coordinators.

History. Acts 2021, No. 1031, § 2.

6-28-206. Immunity not affected.

(a) This chapter shall not affect the immunity from suit granted to state officials and state employees under § 19-10-305 or to the state and its official agencies under Arkansas Constitution, Article 5, § 20.

(b) The exercise of the powers and performance of duties provided for in this chapter by the Chair of the Arkansas Council for Military Children or the Compact Commissioner for Arkansas to the Interstate Compact on Educational Opportunity for Military Children, § 6-4-301 et seq., and the military family education liaison for Arkansas and its officers, agents, and employees are declared to be public and governmental functions, exercised for a public purpose and matters of public necessity, conferring upon each authority governmental immunity from suit in tort.

History. Acts 2021, No. 1031, § 2.

CHAPTERS 29-39

[Reserved.]

SUBTITLE 3. SPECIAL EDUCATIONAL PROGRAMS

CHAPTER 40

GENERAL PROVISIONS

[Reserved.]

CHAPTER 41

CHILDREN WITH DISABILITIES

SUBCHAPTER.

- 1. GENERAL PROVISIONS.
- 2. CHILDREN WITH DISABILITIES ACT OF 1973.
- 3. SPECIAL EDUCATION PROGRAMS GENERALLY.
- 4. IMPROVEMENT OF EDUCATIONAL SERVICES FOR VISUALLY IMPAIRED STUDENTS.
- 5. TASK FORCE ON MEDICALLY FRAGILE, CHRONICALLY ILL, OR TECHNOLOGY-DEPENDENT STUDENTS. [REPEALED.]
- 6. DYSLEXIA AND RELATED DISORDERS.
- 7. BUILDING BETTER FUTURES PROGRAM.
- 8. BUILDING BETTER FUTURES HIGH SCHOOL PROGRAM.
- 9. SUCCEED SCHOLARSHIP PROGRAM.

Cross References. Early intervention program for infants and toddlers, § 20-14-501 et seq.

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ment agency for misclassification or wrongful placement of student in special education program. 33 A.L.R.4th 1166.

Ark. L. Rev. Note, "Appropriate Education" for Handicapped Children in the Eighth Circuit, 35 Ark. L. Rev. 519.

U. Ark. Little Rock L.J. Notes, Handicapped Law — Education For All Handi-

capped Children Act Does Not Require States To Provide Best Possible Option. Springdale School Dist. No. 50 v. Grace, 693 F.2d 41 (8th Cir. 1982), 6 U. Ark. Little Rock L.J. 571.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

6-41-101. Services to children with disabilities in nonpublic schools.

6-41-102. Extended year program.

6-41-103. Identification of children with disabilities.

SECTION.

6-41-104. Services for children determined in another state to be eligible for services due to behavioral disability.

Effective Dates. Acts 1983 (1st Ex. Sess.), No. 100, § 6: Nov. 9, 1983. Emergency clause provided: "It is hereby found and determined by the Seventy-Fourth General Assembly, meeting in Extraordinary Session, that the Supreme Court has ruled unconstitutional the State's formula of distributing Minimum Foundation Aid from the Public School Fund to local school districts and that the continuation of state programs, grants and aids to these local school districts is essential and vital to all its citizens to prevent substantial loss to districts resulting from the new distribution formula. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval."

Acts 1987, No. 1048, § 19: July 1, 1987. Emergency clause provided: "It is hereby found and determined by the Seventy-Sixth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1987 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the

effective date of this Act beyond July 1, 1987 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1987."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-41-101. Services to children with disabilities in nonpublic schools.

(a) Before expending any funding for new programs for children with disabilities that include funding for evaluation, counseling, assessment, personnel, equipment, or other capital outlay in other than public schools, the Division of Career and Technical Education shall publish a public notice of the intent to provide additional special services to children with disabilities, specifying the services in the public notice, and inviting organizations that are recognized by the state to provide education, assessment, jobs skills training, or vocational education to children with disabilities to submit proposals to provide the additional special services.

(b) The division may award one (1) or more contracts to any organization that can fulfill the goals and objectives of the program, or the division may assume responsibility for implementing the program.

History. Acts 1987, No. 1048, § 12; 1993, No. 294, § 14; 1999, No. 1323, § 25; 2019, No. 910, § 1762.

706, § 10; A.S.A. 1947, § 80-2144.
Amendments. The 2019 amendment substituted “Division of Career and Technical Education” for “Department of Career Education” in (a); substituted “division” for “department” twice in (b); and made a stylistic change.

A.C.R.C. Notes. Former § 6-41-101, concerning services to children with disabilities in nonpublic schools, is deemed to be superseded by this section. The former section was derived from Acts 1985, No.

6-41-102. Extended year program.

School districts shall establish and implement extended year programs for school-age children with disabilities for periods beyond the normal school year in accordance with each student’s individualized education program.

History. Acts 1983 (1st Ex. Sess.), No. 100, § 4; A.S.A. 1947, § 80-2145; Acts 1993, No. 294, § 14; 1999, No. 391, § 22; 2017, No. 874, § 1.

Amendments. The 2017 amendment rewrote the section.

6-41-103. Identification of children with disabilities.

- (a) Each local educational agency in the state shall:
 - (1) Ensure that all children with disabilities within its jurisdiction and in need of special education and related services are identified, located, and evaluated, regardless of the severity of their disability, including without limitation:
 - (A) Children with disabilities attending private schools;
 - (B) Highly mobile children with disabilities, including migrant children;
 - (C) Children who are suspected of having a disability and need special education even though they are advancing from grade to grade; and

(D) Children with disabilities who are homeless or wards of the state; and

(2) Develop and maintain a written child-find plan outlining the systematic and continuous efforts it will undertake to meet its responsibilities as described in subdivision (a)(1) of this section.

(b) The State Board of Education shall adopt rules necessary to implement this section.

History. Acts 1991, No. 338, §§ 1-4; deleted “specific learning” preceding “disabilities” in the section heading; and re-
2017, No. 874, § 1.

Amendments. The 2017 amendment wrote the section.

6-41-104. Services for children determined in another state to be eligible for services due to behavioral disability.

(a) This section applies to a child who:

(1) Enrolls for the first time in special education services at an Arkansas public school; and

(2) Has been previously determined by a school district in another state to be eligible for special education services due to a behavioral disability.

(b) The Arkansas public school district shall conduct an evaluation of the child consistent with federal and state rules to determine the appropriate special education disability category recognized in this state, if any.

(c)(1) If a child with a disability who had an individualized education program that was in effect in a previous public agency in another state transfers to a public agency in this state and enrolls in a new school within the same school year, the new public agency in consultation with the parents must provide the child with free appropriate public education including services comparable to those described in the child’s individualized education program from the previous public agency until such time as the new public agency:

(A) Conducts an evaluation pursuant to 34 C.F.R. § 300.304 through 34 C.F.R. § 300.306, if determined to be necessary by the new public agency; and

(B) Develops, adopts, and implements a new individualized education program, if appropriate, that meets the applicable requirements in 34 C.F.R. § 300.320 through 34 C.F.R. § 300.324.

(2) If the child’s behavior results in an out-of-school suspension of ten (10) or more consecutive or nonconsecutive days or an expulsion during the period of time the child receives special education services under the disability category of behavioral disability, the child’s individualized education program team shall meet to review the child’s individualized education program, including the behavioral needs of the child and the current placement of the child, consistent with federal and state rules dealing with special education and related services.

(d) The Division of Elementary and Secondary Education shall have the authority to promulgate rules as necessary to carry out the provisions of this section.

History. Acts 2009, No. 377, § 1; 2019, No. 910, § 1763.
Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” in (d).

SUBCHAPTER 2 — CHILDREN WITH DISABILITIES ACT OF 1973

- SECTION.
6-41-201. Title.
6-41-202. Purposes and applicability.
6-41-203. Definitions.
6-41-204. Least restrictive environment.
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- SECTION.
6-41-213. [Repealed.]
6-41-214. Eligibility.
6-41-215. Tests and examinations — Evaluation of child.
6-41-216. Tests and evaluations — Change of child’s status — Hearings.
6-41-217. Individualized education program — Definition.
6-41-218. Tests and evaluations — Records.
6-41-219. [Repealed.]
6-41-220. Equality in expenditure.
6-41-221. Receipt and disbursement of federal funds.
6-41-222. [Repealed.]
6-41-223. Reports.

Effective Dates. Acts 1973, No. 102, § 29: Feb. 12, 1973. Emergency clause provided: “It is hereby found and determined by the General Assembly that it is essential to promote the public policy of this state to provide adequate education opportunities for all young people in this state, including handicapped children, that the provisions of this Act take effect on July 1, 1973; that due to the unusual workload on the Sixty-Ninth General Assembly it may be necessary to extend the session which could delay the effective date of this Act beyond July 1, 1973 unless an emergency is declared as authorized in Amendment 7 to the Constitution of Arkansas. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”
Acts 2005, No. 1426, § 7: Mar. 30, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has determined that current public school academic facilities in Arkansas are inadequate and inequitable; that the General Assembly established

the Joint Committee on Educational Facilities to inventory the current condition of public school academic facilities and recommend methods for bringing those facilities into conformity with the court’s constitutional expectations; that the programs established in this act are derived from recommendations of the joint committee and are part of a comprehensive state program for overseeing the provision of constitutionally appropriate public school academic facilities across the state; and that this program must be implemented immediately for the good of public school students in the State of Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”
Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General As-

sembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and

Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

RESEARCH REFERENCES

U. Ark. Little Rock L.J. Streett, The Individuals with Disabilities Education Act, 19 U. Ark. Little Rock L.J. 35.

6-41-201. Title.

This subchapter shall be known as the "Children With Disabilities Act of 1973".

History. Acts 1973, No. 102, § 1; A.S.A. 1947, § 80-2115; Acts 1993, No. 294, § 14.

6-41-202. Purposes and applicability.

(a)(1) It is the policy of this state to provide and to require school districts to provide, as an integral part of the public schools, a free appropriate public education for students with disabilities.

(2) The State Board of Education is expressly authorized to assign responsibility for providing free appropriate public education of any child with a disability to an appropriate school district.

(b) The provisions of this section shall apply to all political subdivisions of the state that are involved in the education of children with disabilities, including without limitation the state educational agency, local educational agencies, educational service agencies, public charter schools that are not otherwise included as local educational agencies or educational service agencies and are not a school of a local educational agency or educational service agency, other state agencies and schools, including without limitation the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services and state schools for children with deafness or children with blindness, and state and local juvenile and adult correction facilities.

(c) The provisions of this section shall be binding on each public agency in the state that provides special education and related services to children with disabilities, regardless of whether that agency is receiving funds under Part B of the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.

(d) Each public agency in the state is responsible for ensuring that the rights and protections under Part B of the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., are given to children with disabilities referred to or placed in private schools and facilities by that public agency or placed in private schools by their parents under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.

(e) The state educational agency is responsible for ensuring that the requirements of this section are carried out and that each educational program for children with disabilities administered within the state, including without limitation each program administered by any other state or local agency, is under the general supervision of the persons responsible for educational programs for children with disabilities in the state educational agency and meets the educational standards of the state educational agency, including without limitation the requirements of the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.

History. Acts 1973, No. 102, §§ 2, 17; 1979, No. 1055, § 1; A.S.A. 1947, §§ 80-2116, 80-2131; Acts 1989, No. 703, § 1; 1993, No. 294, § 14; 2005, No. 2151, § 27; 2007, No. 1573, § 34; 2017, No. 913, § 23.

Amendments. The 2017 amendment substituted “Division of Aging, Adult, and Behavioral Health Services” for “Division of Behavioral Health Services” in (b).

RESEARCH REFERENCES

ALR. Provision of “Free Appropriate Public Education” to Student With Attention-Deficit Hyperactivity Disorder (ADHD) Under Individuals With Disabilities Education Act or Rehabilitation Act of 1973. 88 A.L.R. Fed. 2d 1 (2014).

6-41-203. Definitions.

As used in this subchapter:

(1) “A child with a disability” means a person evaluated in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as having an intellectual disability, a hearing impairment, including without limitation deafness, a speech or language impairment, a visual impairment, including without limitation blindness, emotional disturbance, an orthopedic impairment, autism, traumatic brain injury, other health impairments, a specific learning disability, deaf-blindness, or multiple disabilities and who, by reason thereof, needs special education and related services;

(2) “Board” means the State Board of Education;

(3) “Free appropriate public education” means special education and related services that:

(A) Are provided at public expense, under public supervision, and without charge;

(B) Meet the standards of the Division of Elementary and Secondary Education and the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as it existed on January 1, 2017;

(C) Include an appropriate preschool, elementary school, or secondary school education; and

(D) Are provided in conformity with an individualized education program that meets the requirements of the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as it existed on January 1, 2017; and

(4)(A) “Special education” means specially designed instruction at no cost to the parents to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, in other settings, and instruction in physical education.

(B) “Special education” includes each of the following, if the services otherwise meet the requirements of this definition:

(i) Speech-language pathology services or any other related service if the service is considered special education rather than a related service under state standards;

(ii) Travel training; and

(iii) Vocational education.

History. Acts 1973, No. 102, §§ 2, 10, 11; 1975, No. 641, § 4; 1979, No. 1055, § 1; A.S.A. 1947, §§ 80-2116, 80-2124, 80-2125; Acts 1989, No. 943, § 1; 1991, No. 204, § 1; 1991, No. 823, § 1; 1993, No. 294, § 14; 1999, No. 391, §§ 23, 24; 2007, No. 1573, § 35; 2017, No. 874, §§ 2, 3; 2019, No. 910, § 1764.

Amendments. The 2017 amendment, in (1), deleted “between three (3) and

twenty-one (21) years of age” following “a person”, substituted “an intellectual disability” for “mental retardation”, and deleted “a serious” preceding “emotional disturbance”; and added the definition for “Free appropriate public education”.

The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” in (3)(B).

6-41-204. Least restrictive environment.

(a) Each public agency shall ensure that:

(1) To the maximum extent appropriate, a child with a disability, including a child in a public or private institution or other care facility, is educated with children who are nondisabled; and

(2) Special classes, separate schooling, or other removal of a child with a disability from the regular educational environment may occur only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(b) The state funding mechanism shall not:

(1) Result in placements that violate the requirements of subsection (a) of this section; or

(2) Distribute funds on the basis of the type of setting in which a child is served in a manner that results in the failure to provide a child with a disability free appropriate public education according to the unique needs of the child with a disability, as described in the child’s individualized education program.

History. Acts 1973, No. 102, § 4; A.S.A. 1947, § 80-2118; Acts 1993, No. 294, § 14; 2007, No. 1573, § 36.

6-41-205. Provision for education.

(a) The state shall make available a free appropriate public education to each child with a disability from three (3) years of age until the end of the school year in which the child turns twenty-one (21) years of age.

(b) The State Board of Education shall provide or cause to be provided by school districts, or in some cases by other departments of state government, by institutions, or by private facilities, all regular and special education, corrective, and supporting services required by children with disabilities to the end that they shall receive the benefits of a free and appropriate public education.

History. Acts 1973, No. 102, § 3; A.S.A. 1947, § 80-2117; Acts 1993, No. 294, § 14; 1999, No. 391, § 25; 2017, No. 874, § 4. **Amendments.** The 2017 amendment added (a); and designated the existing language as (b).

6-41-206. Responsibilities of state and school districts.

(a)(1) The responsibility of school districts and the state to provide free public education for children with disabilities is not diminished by the availability of private schools and services.

(2) Whenever private schools and services are utilized, it continues to be the responsibility of the appropriate local school district and the State Board of Education to assure an appropriate quantity and quality of instructional and related services, to assure the protection of all other rights, and to ascertain that all children with disabilities receive the educational and related services and rights to which the law of this state entitles them.

(b) It shall be the responsibility of the local school district and the state to provide a free and appropriate public education based upon the individualized education program developed for the child.

History. Acts 1973, No. 102, § 9; 1975, § 14; 1999, No. 391, § 26; 2007, No. 1573, No. 641, § 3; A.S.A. 1947, § 80-2123; Acts 1989, No. 703, §§ 2, 3; 1993, No. 294, § 37.

6-41-207. Duties of State Board of Education.

(a) The State Board of Education is empowered to initiate, inspect, approve, and supervise a program of education for children with disabilities as defined in this subchapter.

(b) It is also designated as the agency for cooperation with the state government and the United States Government, the approved treatment centers, the institutions, and the local schools in carrying out the provisions of this subchapter.

(c) The state board shall make the necessary rules in keeping with the provisions of this subchapter and shall employ the necessary personnel for the proper administration of this subchapter if funds are made available for this purpose.

(d) The state board shall have authority to require such reports as it deems advisable so long as the requirements are in keeping with this subchapter.

(e) The state board, in keeping with federal requirements, is designated as the agency having general educational supervision over public agencies which provide educational services to children with disabilities as defined in this subchapter to ensure that each public agency complies with state rules and federal regulations pursuant to the education of children with disabilities.

(f)(1) The state board, in compliance with federal enforcement requirements, is authorized to disallow the generation of all state aid to children with disabilities to any local school district or education service cooperative that fails to comply with state rules and federal regulations, as determined by independent hearing officers, agency hearing decisions, agency complaint investigation decisions, agency compliance monitoring reports, or agency jurisdictional decisions.

(2) The state board is authorized to set aside funds disallowed under this subsection and to utilize such funds for the provision of a free and appropriate public education to appropriate children with disabilities.

History. Acts 1973, No. 102, §§ 14, 24; A.S.A. 1947, §§ 80-2128, 80-2138; Acts 1989, No. 703, § 4; 1993, No. 294, § 14; 2019, No. 315, §§ 318-320.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (c); and inserted “rules” in (e) and (f)(1).

6-41-208. Contracts for services.

(a) The State Board of Education is granted authorization to contract primarily for appraisal and support services with the Department of Human Services, physicians, or other individuals or organizations that, in the opinion of the state board, possess the necessary expertise to warrant a contract.

(b) In the event of contract, fees paid by the state board may not exceed the amounts that would be paid by a private individual for those services.

History. Acts 1973, No. 102, § 6; 1975, No. 641, § 10; A.S.A. 1947, § 80-2120.

6-41-209. Cooperation among state agencies.

The State Board of Education is granted authority to and is directed to cooperate with the Department of Human Services and with available treatment institutions and qualified individuals in order to provide diagnostic services to children with disabilities in need of such services.

History. Acts 1973, No. 102, § 13; 1975, No. 641, § 5; A.S.A. 1947, § 80-2127; Acts 1993, No. 294, § 14.

6-41-210. Special Education Unit for children with disabilities.

(a) There is established in the Division of Elementary and Secondary Education a Special Education Unit.

(b) The unit shall be headed by a director, who shall be qualified by education, training, and experience to take responsibility for, and give direction to, the programs of the division relating to children with disabilities.

(c) Implementation of this section shall be dependent upon funds being made available to the division for this purpose.

History. Acts 1973, No. 102, § 12; A.S.A. 1947, § 80-2126; Acts 1993, No. 294, § 14; 2019, No. 757, § 59; 2019, No. 910, § 1765.

Amendments. The 2019 amendment by No. 757 substituted “Special Education Unit” for “Special Education Section” in (a); and substituted “unit” for “section”

and “a director” for “an associate director” in (b).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a); and substituted “division” for “department” in (b) and (c).

6-41-211. Advisory Council for the Education of Children with Disabilities.

(a)(1) There shall be an Advisory Council for the Education of Children with Disabilities, which shall advise and consult with the Commissioner of Elementary and Secondary Education and the Director of the Special Education Unit and which shall engage in such other activities as are set forth in this section.

(2) The council shall be advisory only and shall have no administrative responsibility or authority.

(b)(1) The council shall be composed of individuals involved in, or concerned with, the education of children with disabilities, including:

(A) Parents of persons from birth to twenty-six (26) years of age with disabilities;

(B) Individuals with disabilities;

(C) Teachers;

(D) Representatives of institutions of higher education that prepare special education and related services personnel;

(E) State and local education officials, including officials who carry out activities under subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11431 et seq.;

(F) Administrators of programs for children with disabilities;

(G) Representatives of other state agencies involved in the financing or delivery of related services to children with disabilities;

(H) Representatives of private schools and public charter schools;

(I) Not fewer than one (1) representative of a vocational, community, or business organization concerned with the provision of transitional services to children with disabilities;

(J) Representatives from the state juvenile and adult corrections agencies; and

(K) A representative from the Arkansas child welfare agency responsible for foster care.

(2) A majority of the members of the council shall be individuals with disabilities or parents of persons from birth to twenty-six (26) years of age with disabilities.

(c)(1) The commissioner shall appoint the members of the council for three-year terms.

(2) Appointees may be eligible for reappointment for one (1) term.

(d) Vacancies which leave unexpired terms shall be filled in the regular manner for the unexpired period of time, and vacancies as a result of expiration of terms shall be filled in the regular manner for three-year periods.

(e) The council shall elect annually its own chair and vice chair.

(f) The director shall meet with and act as secretary to the council and, subject to the availability of personnel, facilities, and appropriations, shall furnish meeting facilities and staff services for the council.

(g) The council shall:

(1) Advise the Division of Elementary and Secondary Education of unmet needs within the state in the education of children with disabilities;

(2) Comment publicly on any rules proposed by the state regarding the education of children with disabilities;

(3) Advise the division in developing evaluations and reporting on data to the United States Secretary of Education under 20 U.S.C. § 1418;

(4) Advise the division in developing corrective action plans to address findings identified in federal monitoring reports under Title 20, Chapter 33, Subchapter II of the United States Code; and

(5) Advise the division in developing and implementing policies relating to the coordination of services for children with disabilities.

History. Acts 1973, No. 102, § 15; 1975, No. 641, § 6; A.S.A. 1947, § 80-2129; Acts 1993, No. 294, § 14; 1995, No. 1296, § 30; 1999, No. 391, §§ 27, 28; 2005, No. 2151, § 28; 2009, No. 376, § 49; 2019, No. 315, § 321; 2019, No. 757, § 60; 2019, No. 910, §§ 1766, 1767.

Amendments. The 2019 amendment by No. 315 deleted “or regulations” following “rules” in (g)(2).

The 2019 amendment by No. 757 substituted “Director of the Special Education

Unit” for “Associate Director of the Special Education Section” in (a)(1).

The 2019 amendment by No. 910, in (a)(1), substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education”; substituted “Division of Elementary and Secondary Education” for “Department of Education” in (g)(1); and substituted “division” for “department” in (g)(3), (g)(4), and (g)(5).

6-41-212. Facilities.

(a) Physical aspects and specifications for buildings, classrooms, and other facilities for, or likely to be used by, children with disabilities shall be approved by the Division of Public School Academic Facilities and Transportation or a designee.

(b) The division or a designee of the division is required to review plans for public school construction or remodeling that are designed for children with disabilities to ensure accessibility and usefulness for that purpose.

History. Acts 1973, No. 102, § 7; A.S.A. 1947, § 80-2121; Acts 1993, No. 294, § 14; 1999, No. 391, § 29; 2005, No. 1426, § 5.

6-41-213. [Repealed.]

Publisher’s Notes. This section, concerning the Special Education Materials Center, was repealed by Acts 1999, No. 391, § 30. The section was derived from Acts 1973, No. 102, § 23; A.S.A. 1947, § 80-2137.

6-41-214. Eligibility.

Specific eligibility requirements for admission to these special services shall be the responsibility of the State Board of Education.

History. Acts 1973, No. 102, § 5; 1975, No. 641, § 1; A.S.A. 1947, § 80-2119; Acts 2007, No. 1573, § 38.

6-41-215. Tests and examinations — Evaluation of child.

(a) Every school district shall test and examine, or cause to be tested and examined, each child it believes has disabilities.

(b) The tests and examinations shall be administered in accordance with rules of the State Board of Education.

(c) The evaluation shall be made by a multidisciplinary team or group of persons, including at least one (1) teacher or other specialist with knowledge in the area of suspected disability.

(d) The child shall be assessed in all areas related to the suspected disability, including, when appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.

(e) No single procedure shall be used as the sole criterion for determining an appropriate educational program for a child.

History. Acts 1973, No. 102, § 19; 1975, No. 641, § 7; 1979, No. 1055, § 2; 1981, No. 829, § 1; 1983, No. 762, § 1; A.S.A. 1947, § 80-2133; Acts 1993, No. 294, § 14; 2019, No. 315, § 322.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (b).

6-41-216. Tests and evaluations — Change of child's status — Hearings.

(a) All decisions pertaining to change in the educational status of a child shall follow due process procedures established by the State Board of Education.

(b) Due process shall include:

(1) Providing for prior notification to parents of testing and provision of special education services;

(2) The right to request educational evaluation and special education services; and

(3) The right to hearing and appeal of educational decisions.

(c)(1) The state board shall prescribe rules governing hearings and appeals.

(2) Hearings shall be conducted by individuals referred to as "hearing officers" under this section.

(3)(A) The Special Education Unit shall establish standards and qualifications for individuals to serve as hearing officers.

(B) Neither an employee of the Division of Elementary and Secondary Education nor an employee of the local school district involved in a particular hearing may serve as a hearing officer.

(C) Professional service contracts with individuals made for the purpose of compensating them for services rendered in connection with hearings shall not constitute employment.

(d) An individual serving as a qualified hearing officer at an assigned hearing shall be immune from civil suit brought by either party for the consequences of actions required of a hearing officer.

(e)(1) An individual serving as a qualified hearing officer under this section shall have the power to issue subpoenas and to bring before him or her as a witness any person in this state.

(2) The hearing officer shall issue a subpoena upon the request of any party to a pending proceeding.

(3) The writ shall be directed to the sheriff of the county where the witness resides or may be found.

(4) The writ may require the witness to bring with him or her any book, writing, or other thing under the witness's control that he or she is bound by law to produce in evidence.

(5) Service of the writ shall be in the manner as provided by law for the service of subpoenas in civil cases.

(f)(1) A witness who has been served by subpoena in the manner provided by law and who shall have been paid or tendered the legal fees for travel and attendance as provided by law shall be obligated to attend for examination of the trial of the cause pending before the due process hearing officer.

(2) In the event that a witness has been served with subpoenas as provided under this section and fails to attend the hearing in obedience to the subpoena, the hearing officer may apply to the circuit court of the county in which the hearing officer is having the hearing for an order

causing the arrest of the witness and directing that the witness be brought before the court.

(3) The court shall have the power to punish the disobedient witness for contempt as provided by law in the trial of civil cases.

(4) The disobedient witness shall be liable in damages for nonattendance to the trial or hearing as provided by law.

(g) Any party aggrieved by the findings and final decision made by the hearing officer shall have ninety (90) days from the date of the decision of the hearing officer to bring a civil action with respect to the complaint presented in either federal district court or a state court of competent jurisdiction pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as amended, without regard to the amount, if any, in controversy.

History. Acts 1973, No. 102, § 19; 1975, No. 641, § 7; 1979, No. 1055, § 2; 1981, No. 829, § 1; 1983, No. 762, § 1; A.S.A. 1947, § 80-2133; Acts 1995, No. 203, § 1; 1997, No. 369, § 1; 1997, No. 1182, § 1; 2003, No. 1365, § 1; 2005, No. 2151, § 29; 2017, No. 874, § 5; 2019, No. 315, § 323; 2019, No. 757, § 61; 2019, No. 910, § 1768.

Amendments. The 2017 amendment substituted “due process hearing officer” for “state board” in (f)(1).

The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (c)(1).

The 2019 amendment by No. 757 substituted “Special Education Unit” for “Special Education Section” in (c)(3)(A).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (c)(3)(B).

RESEARCH REFERENCES

ALR. Construction and Application of 34 C.F.R. § 300.502, and Prior Codifications, Providing for Independent Educational Evaluation under Individuals With

Disabilities Education Act, (20 U.S.C. §§ 1400 et seq.). 10 A.L.R. Fed. 3d 2 (2016).

CASE NOTES

Statute of Limitations.

Federal district court did not err in dismissing, on statute of limitations grounds, parents’ claim that sought attorney’s fees as the prevailing party of the administrative-level hearing under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq.; the

court did not err in borrowing the 90-day statute of limitations from subsection (g) of this section, a provision of Arkansas’s statutory framework for IDEA compliance. *Richardson v. Omaha Sch. Dist.*, 957 F.3d 869 (8th Cir. 2020), cert. denied, — U.S. —, 141 S. Ct. 2851, 210 L. Ed. 2d 960 (2021).

6-41-217. Individualized education program — Definition.

(a) Before any action is taken with respect to the initial placement of a child with disabilities in a special education program, a full and individual evaluation of the child’s educational needs must be conducted.

(b)(1) Before placement in special education services, each child must have an individualized education program.

(2) The term “individualized education program” or “IEP” means a written statement for each child with disabilities that is developed, reviewed, and revised in accordance with the requirements of the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.

(3) The individualized education program shall include:

(A) A statement of the child’s present levels of academic achievement and functional performance, including:

(i) How the child’s disability affects the child’s involvement and progress in the general education curriculum;

(ii) For preschool children, as appropriate, how the disability affects the child’s participation in appropriate activities; and

(iii) For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;

(B) A statement of measurable annual goals, including academic and functional goals, designed to:

(i) Meet the child’s needs that result from the child’s disability in order to enable the child to be involved in and to make progress in the general education curriculum; and

(ii) Meet each of the child’s other educational needs that result from the child’s disability;

(C) A description of how the child’s progress toward meeting the annual goals described in subdivision (b)(3)(B) of this section will be measured and when periodic reports will be provided on the progress the child is making toward meeting the annual goals, including, but not limited to, the use of quarterly or other periodic reports, concurrent with the issuance of report cards;

(D) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child:

(i) To advance appropriately toward attaining the annual goals;

(ii) To be involved in and to make progress in the general education curriculum in accordance with this section and to participate in extracurricular and other nonacademic activities; and

(iii) To be educated and to participate with other children with disabilities and nondisabled children in the activities described in this section;

(E) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in this section;

(F)(i) A statement of any individual-appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on statewide and districtwide assessments consistent with the Individuals with Disabilities Education Act, regarding participation in assessments of students with disabilities in all general statewide and districtwide assessment programs.

- (ii) If the individualized education program team determines that the child shall take an alternative assessment on a particular statewide or districtwide assessment of student achievement, a statement of why:
 - (a) The child cannot participate in the regular assessment; and
 - (b) The particular alternate assessment selected is appropriate for the child;
- (G) The projected date for the beginning of the services and modifications described in this section, and the anticipated frequency, location, and duration of those services and modifications; and
- (H)(i)(a) Beginning not later than the first individualized education plan to be in effect when the child is sixteen (16) years of age and updated annually thereafter, appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and when appropriate, independent living skills.
- (b) The individualized education program shall also include the transition services, including courses of study, needed to assist the child in reaching those goals.
- (ii) Beginning no later than one (1) year before the child reaches the age of majority under state law, a statement that the child has been informed of his or her rights under this title, if any, that will transfer to the child on reaching the age of majority under the Individuals with Disabilities Education Act.
- (c) Nothing in this section shall be construed to require the individualized education program team to include information under one (1) component of a child's individualized education program that is already contained under another component of such individualized education program.

History. Acts 1973, No. 102, § 19; 391, § 31; 2005, No. 2151, § 30; 2009, No. 1983, No. 762, § 1; A.S.A. 1947, § 80-376, § 50. 2133; Acts 1993, No. 294, § 14; 1999, No.

RESEARCH REFERENCES

ALR. Construction and Application of Disabilities Education Act, (20 U.S.C. 34 C.F.R. § 300.502, and Prior Codifications, Providing for Independent Educational Evaluation under Individuals With §§ 1400 et seq.). 10 A.L.R. Fed. 3d 2 (2016).

6-41-218. Tests and evaluations — Records.

- (a) Every public school district shall make and keep current a list of all children with disabilities tested and examined.
- (b) The results of tests and examinations shall be confidential except that the parent or guardian and the child age eighteen (18) or over shall have access to the results, and physicians and other specialists may be given the results with the permission of the parent or guardian or child age eighteen (18) or over.

History. Acts 1973, No. 102, § 21; 1975, No. 641, § 8; A.S.A. 1947, § 80-2135; Acts 1993, No. 294, § 14.

6-41-219. [Repealed.]

Publisher's Notes. This section, concerning tests and evaluations and children in private schools, was repealed by

Acts 2017, No. 874, § 6. The section was derived from Acts 1973, No. 102, § 20; A.S.A. 1947, § 80-2134.

6-41-220. Equality in expenditure.

(a)(1) It is the responsibility of school districts to expend effort on behalf of the education of each child with disabilities equal to the effort expended on account of the education of each child who does not have a disability.

(2) Any additional effort necessary to provide supplemental aids and services shall be the ultimate responsibility of the state but shall, to the maximum extent practicable, be the responsibility of the local school districts.

(b)(1) Two (2) or more school districts may join together to establish special classes for children with disabilities.

(2) In such event, one (1) school district shall be designated as the controlling agent, and all reimbursement for the education of children with disabilities from the State Board of Education shall be made to this school district.

(3) Local revenues or tuition from other school districts participating in the cooperative will be paid to the controlling school district on an accepted prorated formula per child.

History. Acts 1973, No. 102, §§ 8, 18; 1975, No. 641, § 2; 1979, No. 1055, § 3; A.S.A. 1947, §§ 80-2122, 80-2132; Acts 1993, No. 294, § 14; 2007, No. 1573, § 39.

Cross References. Apportionment of education funds for children with disabilities and foster children, § 6-20-501 et seq.

6-41-221. Receipt and disbursement of federal funds.

(a)(1) The State Board of Education is designated as the state agency to receive and disburse federal funds designed to improve educational opportunities provided for children with disabilities as defined in this subchapter.

(2) The funds shall not include moneys appropriated by the United States Congress that are designated specifically for use by other agencies, institutions, or treatment facilities for children with disabilities.

(b) The specific intention of this section is to provide that the state board is designated as the state agency to receive and disburse federal and state funds made available to this state for education of children with disabilities, except as specifically provided for otherwise by the United States Congress or the General Assembly, and no other interpretation shall be given to it.

(c)(1) It is declared to be the intent of the General Assembly that, of the state funds allocated and appropriated to the state board for children with disabilities, the state board is authorized to spend no more than two percent (2%) of the funds or appropriations, or both, for program costs necessary at the state level to implement the intent of this subchapter.

(2) The costs may include, but are not necessarily limited to, the programs or services benefitting children with disabilities such as consultative services, workshop expenses, institutional materials, council expenses, in-service programs, scholarships for teachers of children with disabilities, and testing programs.

(d) The state board shall develop such plans and procedures as may be required in order to receive and disburse federal funds for children with disabilities.

History. Acts 1973, No. 102, §§ 16, 22; 1975, No. 641, § 9; A.S.A. 1947, §§ 80-2130, 80-2136; Acts 1993, No. 294, § 14.

6-41-222. [Repealed.]

Publisher's Notes. This section, concerning a prohibition on supplementing the salaries of full-time state employees,

was repealed by Acts 1999, No. 391, § 32. The section was derived from Acts 1973, No. 102, § 25; A.S.A. 1947, § 80-2139.

6-41-223. Reports.

Each school district shall report annually to the State Board of Education at a prescribed due date the extent to which it is at that time providing for the special education for children with disabilities, as necessary to implement the policy of this subchapter.

History. Acts 1973, No. 102, § 17; A.S.A. 1947, § 80-2131; Acts 1993, No. 294, § 14.

SUBCHAPTER 3 — SPECIAL EDUCATION PROGRAMS GENERALLY

SECTION.	SECTION.
6-41-301 — 6-41-307. [Repealed.]	6-41-312. Reports.
6-41-308. [Repealed.]	6-41-313. Contracts for services pursuant to federal law.
6-41-309, 6-41-310. [Repealed.]	
6-41-311. [Repealed.]	

Cross References. Southern Regional Education Compact, § 6-4-101 et seq.

Effective Dates. Acts 1971, No. 39, § 15; Feb. 4, 1971. Emergency clause provided: "It is hereby found and determined by the General Assembly that education of exceptional children in the public schools

of the state is vitally necessary. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in effect from the date of its passage and approval."

Acts 1999, No. 1078, § 92; July 1, 2000.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and classifi-

cation of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-41-301 — 6-41-307. [Repealed.]

Publisher's Notes. These sections, concerning purpose, definitions, powers and duties of the State Board of Education generally, school districts and procedures for participation in program, cooperation among school districts, classes in treatment institutions, and appropriations, were repealed by Acts 2017, No. 874, § 7. The sections were derived from:

6-41-301. Acts 1971, No. 39, § 1; A.S.A. 1947, § 80-2101.

6-41-302. Acts 1971, No. 39, § 2; A.S.A.

1947, § 80-2102; Acts 1991, No. 823, § 2; 1999, No. 391, § 33.

6-41-303. Acts 1971, No. 39, § 4; A.S.A. 1947, § 80-2104.

6-41-304. Acts 1971, No. 39, §§ 6, 7; A.S.A. 1947, §§ 80-2106, 80-2107.

6-41-305. Acts 1971, No. 39, § 7; A.S.A. 1947, § 80-2107.

6-41-306. Acts 1971, No. 39, §§ 6, 10; A.S.A. 1947, §§ 80-2106, 80-2110.

6-41-307. Acts 1971, No. 39, § 5; A.S.A. 1947, § 80-2105.

6-41-308. [Repealed.]

Publisher's Notes. This section, concerning the schedule of payments, was repealed by Acts 1999, No. 391, § 34. The

section was derived from Acts 1971, No. 39, § 5; A.S.A. 1947, § 80-2105.

6-41-309, 6-41-310. [Repealed.]

Publisher's Notes. These sections, concerning standards for instruction, personnel qualifications, eligibility and limitation, were repealed by Acts 2017, No. 874, § 8. The sections were derived from:

6-41-309. Acts 1971, No. 39, § 8; A.S.A. 1947, § 80-2108.

6-41-310. Acts 1971, No. 39, § 3; A.S.A. 1947, § 80-2103.

6-41-311. [Repealed.]

Publisher's Notes. This section, concerning admissions and discharges, was repealed by Acts 1999, No. 391, § 35. The

section was derived from Acts 1971, No. 39, § 11; A.S.A. 1947, § 80-2111.

6-41-312. Reports.

(a) Public school districts and entities receiving state or federal funds to provide special education programming shall keep an accurate account, in the manner and on the forms prescribed by the Division of Elementary and Secondary Education, of all moneys expended for

special education programs and shall report those expenditures to the division.

(b) A report of the average daily attendance of all students enrolled, including students receiving instruction in the homebound setting, will be made to the division.

History. Acts 1971, No. 39, § 9; A.S.A. 1947, § 80-2109; Acts 2017, No. 874, § 9; 2019, No. 910, § 1769.

Amendments. The 2017 amendment, in (a), substituted “Public school districts and entities receiving state or federal funds to provide special education programming” for “Local boards of education and treatment institutions”, “Department of Education” for “board”, and “department” for “State Board of Education” at

the end; and, in (b), substituted “students receiving instruction in the homebound setting” for “pupils instructed by home teachers showing the number of hours devoted to such work” and “department” for “Department of Education” at the end.

The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a); and substituted “division” for “department” in (a) and (b).

6-41-313. Contracts for services pursuant to federal law.

(a) The State Board of Education is authorized to contract with a school district and with the boards of other institutions under the control of a public board or commission for services to be provided for exceptional children as provided for in Title VI, Part B of Pub. L. No. 91-230 of 1965, as amended.

(b) School district boards of directors are authorized to contract for services for exceptional children residing in respective school districts or for services rendered in more than one (1) school district in a county if mutual agreements have been signed by the school districts affected authorizing one (1) school district to contract for two (2) or more school districts in a county.

History. Acts 1971, No. 39, §§ 12, 13; A.S.A. 1947, §§ 80-2112, 80-2113; Acts 1999, No. 1078, § 84.

SUBCHAPTER 4 — IMPROVEMENT OF EDUCATIONAL SERVICES FOR VISUALLY IMPAIRED STUDENTS

SECTION.
6-41-401. Legislative findings.
6-41-402. Definitions.
6-41-403. Assessment of student progress.
6-41-404. Braille instruction.

SECTION.
6-41-405. Electronic textbooks.
6-41-406. Compliance required.
6-41-407. Accommodation for students with sensory processing difficulty.

Publisher’s Notes. Former §§ 6-41-401 — 6-41-407, concerning the El Dorado Pilot Program for children with hearing defects, was repealed by Acts 1993, No. 294, § 15. The former subchapter was derived from the following sources:

6-41-401. Acts 1973, No. 582, § 1; A.S.A. 1947, § 80-2140.
6-41-402. Acts 1973, No. 582, § 1; A.S.A. 1947, § 80-2140.
6-41-403. Acts 1973, No. 582, § 2; A.S.A. 1947, § 80-2141.

6-41-404. Acts 1973, No. 582, § 2; A.S.A. 1947, § 80-2141.

6-41-405. Acts 1973, No. 582, § 2; A.S.A. 1947, § 80-2141.

6-41-406. Acts 1973, No. 582, § 3; A.S.A. 1947, § 80-2142.

6-41-407. Acts 1973, No. 582, § 4; A.S.A. 1947, § 80-2143.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and

operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-41-401. Legislative findings.

The General Assembly finds that proficiency in braille reading and writing is essential for the satisfactory educational progress of visually impaired students and that braille instruction must be used in combination with other special education services that are appropriate to the educational needs of visually impaired students; therefore, it is hereby declared to be the policy of this state to provide, and to require school districts to provide, all visually impaired students who are enrolled in Arkansas public schools and whose education is adversely affected by their visual disability with an equal opportunity for appropriate instruction. Appropriate instruction shall be designed to enable each visually impaired student to communicate with the same level of proficiency as other students of comparable ability at the same grade level.

History. Acts 1993, No. 483, § 1.

6-41-402. Definitions.

As used in this subchapter:

(1) "Compliance citation" means a citation issued by the Division of Elementary and Secondary Education that documents a school's failure to comply with state education laws; and

(2) "Individualized education program" means the evaluation of the educational needs of a child with disabilities conducted pursuant to § 6-41-217.

History. Acts 1993, No. 483, § 2; 1995, No. 1296, § 31; 1999, No. 391, § 36; 2019, No. 910, § 1770.

Amendments. The 2019 amendment

substituted "Division of Elementary and Secondary Education" for "Department of Education" in (1); and deleted (2) and redesignated (3) as (2).

6-41-403. Assessment of student progress.

- (a) Each school district shall ensure that at least one (1) time per year a licensed teacher of the visually impaired, or other qualified person as determined by the Division of Elementary and Secondary Education, conducts an assessment of the educational progress of each visually impaired student enrolled in that school district identified as having or suspected of having a disability pursuant to the Children with Disabilities Act of 1973, § 6-41-201 et seq. The assessment shall:
 - (1) Address the student’s need for braille instruction, using procedures developed by the division, and specify the learning medium most appropriate for the student’s educational progress;
 - (2) Identify the student’s strengths and weaknesses in braille skills when that medium is used for instruction; and
 - (3) Identify appropriate and necessary related services and technologies for use in combination with braille instruction.
- (b) The results of the assessment shall be used to develop the student’s individualized education program.

History. Acts 1993, No. 483, § 3; 2009, No. 376, § 51; 2013, No. 1138, § 73; 2019, No. 910, §§ 1771, 1772. Secondary Education” for “Department of Education” in the introductory language of (a); and substituted “division” for “department” in (a)(1).

Amendments. The 2019 amendment substituted “Division of Elementary and

6-41-404. Braille instruction.

Each student who needs braille reading and writing instruction shall receive instruction from either a licensed teacher of the visually impaired or a person who is qualified in braille instruction as determined by the Division of Elementary and Secondary Education.

History. Acts 1993, No. 483, § 4; 2013, No. 1138, § 74; 2019, No. 910, § 1773. substituted “Division of Elementary and Secondary Education” for “Department of Education”.

Amendments. The 2019 amendment

6-41-405. Electronic textbooks.

- (a) The Division of Elementary and Secondary Education shall have the authority to require publishers of textbooks to furnish electronic media for the text portion of those textbooks required by visually impaired students.
- (b) The electronic media shall be immediately capable of being electronically translated into braille or large print by computer or other electronic media.
- (c) When braille code translation allows, publishers shall furnish electronic media for the nontextual portion of textbooks.

History. Acts 1993, No. 483, § 6; 2019, No. 910, § 1774. “The department shall no later than July 1, 1994 have made all necessary arrangements for obtaining, producing, and distributing textbooks in braille or large

A.C.R.C. Notes. As originally enacted, Acts 1993, No. 483, § 6, also provided:

print from electronic media obtained from textbook publishers as described in this act.”

Amendments. The 2019 amendment

substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a).

6-41-406. Compliance required.

Failure of a school district to come into compliance with the provisions of this subchapter shall be grounds for a compliance citation from the Division of Elementary and Secondary Education.

History. Acts 1993, No. 483, § 7; 2019, No. 910, § 1775.

Amendments. The 2019 amendment

substituted “Division of Elementary and Secondary Education” for “Department of Education”.

6-41-407. Accommodation for students with sensory processing difficulty.

When administering a state-mandated assessment or a state-mandated test, the Division of Elementary and Secondary Education and each school district shall allow a student that has been evaluated through appropriate testing, including a comprehensive eye examination by an optometrist or an ophthalmologist, and identified as having difficulty with sensory processing in reaction to oversensitivity to full spectrum light to use color overlays specific to the student’s oversensitivity that alter the contrast between the words and the page so that the student can visually comprehend the words on a page of a state-mandated assessment or a state-mandated test, if made available by the test developer.

History. Acts 2009, No. 1460, § 1; 2017, No. 745, § 31; 2019, No. 910, § 1776.

Amendments. The 2017 amendment added “if made available by the test developer” at the end.

The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education”.

SUBCHAPTER 5 — TASK FORCE ON MEDICALLY FRAGILE, CHRONICALLY ILL, OR TECHNOLOGY-DEPENDENT STUDENTS

[Repealed.]

SECTION.

6-41-501 — 6-41-504. [Repealed.]

6-41-501 — 6-41-504. [Repealed.]

A.C.R.C. Notes. The repeal of § 6-41-503 by Acts 2013, No. 1155, § 18, superseded the amendment of this section by Acts 2013, No. 1138, § 75. The amendment by Acts 2013, No. 1138, § 75, substituted “licensed” for “certified” in a reference to a public school employee.

Publisher’s Notes. These sections, concerning the Task Force on Medically Fragile, Chronically Ill, or Technology-Dependent Students, were repealed by Acts 2013, No. 1155, § 18. The sections were derived from the following sources:
6-41-501. Acts 1995, No. 1146, § 1.

6-41-502. Acts 1995, No. 1146, § 2.
6-41-503. Acts 1995, No. 1146, § 3.

6-41-504. Acts 1995, No. 1146, § 3;
1997, No. 112, § 13.

SUBCHAPTER 6 — DYSLEXIA AND RELATED DISORDERS

SECTION.

- 6-41-601. Findings.
- 6-41-602. Definitions.
- 6-41-603. Required screening and intervention.
- 6-41-604. Level II dyslexia screening and services — Parental notification.
- 6-41-605. Instructional approaches.
- 6-41-606. Reporting by school district.
- 6-41-607. Dyslexia specialist.

SECTION.

- 6-41-608. Dyslexia professional awareness.
- 6-41-609. Dyslexia and related disorder education in teacher preparation programs.
- 6-41-610. Rules — Dyslexia resource guide.
- 6-41-611. Enforcement — Rules.
- 6-41-612. Certified Academic Language Therapists.

A.C.R.C. Notes. Acts 2019, No. 1089, § 1, provided: “Legislative findings. The General Assembly finds that:

“(1) The Division of Youth Services is part of the organizational structure of the Department of Human Services and offers a number of programs for juveniles;

“(2) Among the programs and services offered by the division is an education system, and one (1) of the goals of the education system of the division is to ensure significant academic progress for each juvenile who is served by the division;

“(3) The mission of the education system of the division is to provide, in a manner consistent with the administration of public education in this state and throughout the country, a system of high quality education programs that address the needs of juveniles who come in contact with the juvenile justice system;

“(4) To accomplish the mission of the division, the division:

“(A) Identifies and serves each juvenile with a disability in the division;

“(B) Improves the individual academic achievement of each juvenile in the education system of the division;

“(C) Provides an opportunity for progress toward state and local graduation requirements for each high-school-age juvenile in the education system of the division; and

“(D) Provides an opportunity for post-secondary education preparation for each juvenile who enters with or achieves graduate status while in the education system of the division;

“(5) The goal of the education system of the division is to coordinate with and not match the public school system in this state, and by offering courses in the core subject areas that meet state standards and graduation requirements, the division offers a consistent opportunity for all juveniles who are involved with the division to make adequate progress towards graduation; and

“(6) Reading proficiency is the foundation for achieving the goal of the education system of the division and any other education system in this state.”

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-41-601. Findings.

The General Assembly finds that:

- (1) Dyslexia, if not diagnosed early, can be severely detrimental to a child's academic success as well as his or her self-esteem;
- (2) Most children identified as having characteristics of dyslexia and related disorders can be treated successfully; and
- (3) The cost of screening and treating dyslexia or a related disorder early is significantly less than the cost of intensive remediation in the later school years for a child with dyslexia or a related disorder.

History. Acts 2013, No. 1294, § 1;
2015, No. 1268, § 1.

6-41-602. Definitions.

As used in this subchapter:

- (1) "Dyslexia" means a specific learning disability that is:
 - (A) Neurological in origin;
 - (B) Characterized by difficulties with accurate and fluent word recognition and poor spelling and decoding abilities that typically result from a deficit in the phonological component of language; and
 - (C) Often unexpected in relation to other cognitive abilities;
- (2) "Dyslexia interventionist" means a school district or public school employee trained in a dyslexia program, such as a:
 - (A) Dyslexia therapist;
 - (B) Dyslexia specialist;
 - (C) Reading interventionist;
 - (D) Certified teacher; or
 - (E) Tutor or paraprofessional working under the supervision of a certified teacher;
- (3) "Dyslexia program" means explicit, direct instruction that is:
 - (A) Systematic, sequential, and cumulative and follows a logical plan of presenting the alphabetic principle that targets the specific needs of the student without presuming prior skills or knowledge of the student;
 - (B) Systematic, multisensory, and research-based;
 - (C) Offered in a small group setting to teach students the components of reading instruction, including without limitation:
 - (i) Phonemic awareness to enable a student to detect, segment, blend, and manipulate sounds in spoken language;
 - (ii) Graphophonemic knowledge for teaching the letter-sound plan of English;
 - (iii) The structure of the English language that includes morphology, semantics, syntax, and pragmatics;
 - (iv) Linguistic instruction directed toward proficiency and fluency with the patterns of language so that words and sentences are carriers of meaning; and
 - (v) Strategies that students use for decoding, encoding, word recognition, fluency, and comprehension; and

(D)(i) Delivered with fidelity.

(ii) “Fidelity” means the intervention is done as the author of the program intended;

(4)(A) “Dyslexia specialist” means a professional at each education service cooperative or school district who has expertise and is working towards an endorsement or certification in providing training for:

(i) Phonological and phonemic awareness;

(ii) Sound and symbol relationships;

(iii) Alphabet knowledge;

(iv) Decoding skills;

(v) Rapid naming skills; and

(vi) Encoding skills.

(B) A dyslexia specialist shall be fluent in the Response to Intervention (RTI) process and provide training in administering screenings, analyzing and interpreting screening data, and determining appropriate interventions that are systematic, multisensory, and evidence-based;

(5) “Dyslexia therapist” means a professional who has completed training and obtained certification in dyslexia therapy from a dyslexia therapy training program defined by the Division of Elementary and Secondary Education; and

(6) “Dyslexia therapy” means an appropriate specialized reading instructional program specifically designed for use in a dyslexia program that is delivered by a dyslexia interventionist.

History. Acts 2013, No. 1294, § 1; substituted “Division of Elementary and Secondary Education” for “Department of Education” in (5).
2015, No. 1268, § 2; 2019, No. 910, § 1777.

Amendments. The 2019 amendment

6-41-603. Required screening and intervention.

(a)(1) A school district shall screen each student in kindergarten through grade two (K-2) and others required by the Division of Elementary and Secondary Education rule using the Dynamic Indicators of Basic Early Literacy Skills (DIBELS) or an equivalent screener.

(2) The screening of students shall be performed with fidelity and include without limitation:

(A) Phonological and phonemic awareness;

(B) Sound symbol recognition;

(C) Alphabet knowledge;

(D) Decoding skills;

(E) Rapid naming skills; and

(F) Encoding skills.

(3)(A) If the screener under subdivision (a)(1) of this section shows that a student is at risk, or at some risk, then a level I dyslexia screener shall be administered.

(B) The level I dyslexia screening of a student shall be performed with fidelity and include the components listed under subdivision (a)(2) of this section.

(b) The division shall adopt rules to ensure that students will be screened using Dynamic Indicators of Basic Early Literacy Skills (DIBELS) or an equivalent screener:

(1) In kindergarten through grade two (K-2);

(2) When a student in kindergarten through grade two (K-2) transfers to a new school and has not been screened;

(3) When a student in grade three (3) or higher has difficulty, as noted by a classroom teacher, in:

(A) Phonological and phonemic awareness;

(B) Sound-symbol recognition;

(C) Alphabet knowledge;

(D) Decoding skills;

(E) Rapid naming skills; and

(F) Encoding skills; and

(4) When a student from another state enrolls for the first time in Arkansas in kindergarten through grade two (K-2) unless the student presents documentation that the student:

(A) Had the screening or a similar screening; or

(B) Is exempt from screening.

(c)(1) If the initial, level I, or level II dyslexia screening indicates that a student has characteristics of dyslexia, the Response to Intervention (RTI) process shall be used to address the needs of the student.

(2)(A)(i) If the level II dyslexia screening conducted by the school district indicates that a student exhibits characteristics of dyslexia, the student shall be provided intervention services.

(ii) The level II dyslexia screening shall be completed consistent with the Arkansas Dyslexia Resource Guide.

(B) If it is determined that the student has functional difficulties in the academic environment due to characteristics of dyslexia, the necessary accommodations or equipment for the student shall be provided under section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131—12165, as they existed on February 1, 2013, if qualified under the applicable federal law.

History. Acts 2013, No. 1294, § 1; 2015, No. 1268, § 2; 2017, No. 1039, § 1; 2019, No. 910, §§ 1778, 1779.

Amendments. The 2017 amendment redesignated former (c)(2)(A) as (c)(2)(A)(i); and added (c)(2)(A)(ii).

The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a)(1) and the introductory language of (b).

6-41-604. Level II dyslexia screening and services — Parental notification.

(a) If a student’s performance on an initial screener, level I screening, or level II dyslexia screening under § 6-41-603 indicates a need for

dyslexia intervention services, the student's parent or legal guardian shall be:

- (1) Notified of the results of the dyslexia evaluation; and
- (2) Provided with information and resource material, including without limitation:

- (A) The characteristics of dyslexia;
- (B) Appropriate classroom interventions and accommodations for students with dyslexia; and
- (C) The right of the parent or legal guardian to have the student receive an independent comprehensive dyslexia evaluation by a:
 - (i) Licensed psychological examiner;
 - (ii) School psychology specialist;
 - (iii) Licensed speech-language pathologist;
 - (iv) Certified dyslexia testing specialist; or
 - (v) Dyslexia therapist.

(b)(1) If a parent or legal guardian chooses to have an independent comprehensive dyslexia evaluation for the student, the parent or legal guardian shall:

- (A) Select an individual qualified under subdivision (a)(2)(C) of this section to perform the comprehensive dyslexia evaluation; and
- (B) Cover the cost of the comprehensive dyslexia evaluation.

(2) A school district shall consider the diagnosis and provide the student with interventions determined to be appropriate by the school district from a dyslexia interventionist at the school district.

History. Acts 2013, No. 1294, § 1;
2015, No. 1268, § 2.

6-41-605. Instructional approaches.

(a) Dyslexia intervention for a student whose dyslexia level I or level II screening under § 6-41-603(c) indicates the need for dyslexia intervention services may include the following instructional approaches:

(1) Explicit, direct instruction that is systematic, sequential, and cumulative and follows a logical plan of presenting the alphabetic principle that targets the specific needs of the student without presuming prior skills or knowledge of the student;

(2) Individualized instruction to meet the specific needs of the student in a small group setting that uses intensive, highly concentrated instruction methods and materials that maximize student engagement;

(3) Meaning-based instruction directed at purposeful reading and writing with an emphasis on comprehension and composition; and

(4) Multisensory instruction that incorporates the simultaneous use of two (2) or more sensory pathways during teacher presentations and student practice.

(b) Until there are a sufficient number of graduates from a dyslexia therapy program established at the university level in Arkansas or from a dyslexia therapy program established at the university level in

another state that is approved by the Division of Elementary and Secondary Education, the division shall allow dyslexia therapy to be provided by individuals who have received training and certification from a program approved by the division.

History. Acts 2013, No. 1294, § 1; in (b), substituted “Division of Elementary and Secondary Education” for “Department of Education”, and substituted “division” for “department” twice.
2015, No. 1268, § 3; 2019, No. 910, § 1780.

Amendments. The 2019 amendment,

6-41-606. Reporting by school district.

(a) The superintendent of a school district annually shall report the results of the school district screening required under § 6-41-603.

(b) Before July 15, a public school district shall report on the website of the public school district or in writing to the parents of each student in the public school district the following information:

(1) The dyslexia intervention programs used during the previous school year that were specifically responsive to assisting students with dyslexia;

(2) The number of students during the previous school year who received dyslexia intervention under this subchapter; and

(3) The total number of students identified with dyslexia during the previous school year.

History. Acts 2013, No. 1294, § 1; redesignated the existing language as (a);
2017, No. 1039, § 2. and added (b).

Amendments. The 2017 amendment

6-41-607. Dyslexia specialist.

(a) The Division of Elementary and Secondary Education shall employ at least one (1) dyslexia specialist with a minimum of three (3) years of field experience in screening, identifying, and treating dyslexia and related disorders to provide technical assistance for dyslexia and related disorders to school districts across the state.

(b) The dyslexia specialist shall:

(1) Be highly trained in dyslexia and related disorders, including best-practice interventions and treatment models for dyslexia;

(2) Be responsible for the accountability of screening results and the implementation of professional awareness required under § 6-41-608; and

(3) Serve as the primary source of information and support for school districts addressing the needs of students with dyslexia and related disorders.

(c) The division shall ensure that at least one (1) staff member at each education service cooperative is trained as a dyslexia specialist to provide necessary information and support to school districts.

(d) No later than the 2015-2016 academic year, a school district shall have individuals to serve as dyslexia interventionists.

History. Acts 2013, No. 1294, § 1; 2015, No. 1268, § 4; 2019, No. 910, §§ 1781, 1782.

Amendments. The 2019 amendment substituted “The Division of Elementary

and Secondary Education” for “No later than the 2015 fiscal year, the Department of Education” in (a); and substituted “division” for “department” in (c).

6-41-608. Dyslexia professional awareness.

(a) The Division of Elementary and Secondary Education shall ensure that each teacher receives professional awareness on:

- (1) The characteristics of dyslexia; and
- (2) The evidence-based interventions and accommodations for dyslexia.

(b) Professional awareness may be provided:

- (1) Online;
- (2) At an education service cooperative; or
- (3) At another venue approved by the division.

History. Acts 2013, No. 1294, § 1; 2015, No. 1268, § 5; 2019, No. 910, §§ 1783, 1784.

Amendments. The 2019 amendment substituted “The Division of Elementary

and Secondary Education” for “No later than the 2014-2015 school year, the Department of Education” in (a); and substituted “division” for “department” in (b)(3).

6-41-609. Dyslexia and related disorder education in teacher preparation programs.

The Division of Elementary and Secondary Education shall collaborate with the Division of Higher Education to ensure that all teacher education programs offered at state-supported institutions of higher education provide dyslexia professional awareness of the:

- (1) Characteristics of dyslexia; and
- (2) Evidence-based interventions and accommodations for dyslexia.

History. Acts 2013, No. 1294, § 1; 2015, No. 1268, § 6; 2019, No. 910, § 1785.

Amendments. The 2019 amendment, in the introductory language, substituted “The Division of Elementary and Second-

ary Education” for “No later than the 2015-2016 school year, the Department of Education”, and substituted “Division of Higher Education” for “Department of Higher Education”.

6-41-610. Rules — Dyslexia resource guide.

(a) The Division of Elementary and Secondary Education shall adopt rules to implement this subchapter.

(b)(1) The Division of Elementary and Secondary Education shall maintain a committee for the purpose of developing and updating the Arkansas Dyslexia Resource Guide.

(2)(A) The committee shall include one (1) representative who has experience working in the field of dyslexia intervention from the following organizations, appointed by the Commissioner of Elementary and Secondary Education:

- (i) The Arkansas Association of Educational Administrators;

- (ii) The Division of Learning Services of the Division of Elementary and Secondary Education;
 - (iii) The Division of Higher Education;
 - (iv) The Arkansas Education Association;
 - (v) The Arkansas School Boards Association;
 - (vi) The Arkansas School Psychology Association, with at least three (3) years of experience in testing for dyslexia; and
 - (vii) An education service cooperative administrator.
- (B) Three (3) professionals who have worked in a public school who are knowledgeable in and have expertise in dyslexia screening and interventions.

History. Acts 2013, No. 1294, § 1; 2015, No. 1268, § 7; 2019, No. 910, § 1786.

Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a) and (b)(2)(A)(ii); substituted “Division of Elementary and Sec-

ondary Education” for “department” in (b)(1); substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in the introductory language of (b)(2)(A); and substituted “Division of Higher Education” for “Department of Higher Education” in (b)(2)(A)(iii).

6-41-611. Enforcement — Rules.

- (a)(1) A public school district that fails to comply with this subchapter:
- (A) Shall be in violation of the Standards for Accreditation of Arkansas Public Schools and School Districts; and
 - (B) May be placed on probationary status.
- (2) A public school district placed on probationary status under subdivision (a)(1) of this section shall report the reason for being placed on probationary status:
- (A) On the website of the public school district; and
 - (B) By written notification to the parents of each student in the public school district.
- (b) The Division of Elementary and Secondary Education:
- (1) Shall enforce the requirements of this subchapter; and
 - (2) May promulgate rules to enforce and implement this subchapter.

History. Acts 2017, No. 1039, § 3; 2019, No. 910, § 1787.

Amendments. The 2019 amendment substituted “Division of Elementary and

Secondary Education” for “Department of Education” in the introductory language of (b).

6-41-612. Certified Academic Language Therapists.

- (a) The Division of Elementary and Secondary Education shall:
- (1) Create a network of Certified Academic Language Therapists to support public schools for the purpose of providing a specialized dyslexia instructional program designed to provide therapy to public school students with dyslexia or related reading and written language difficulties;

(2) Establish and coordinate a dyslexia therapy training program for educators to increase the number of Certified Academic Language Therapists available to provide diagnostic, explicit, systematic, multi-sensory language intervention that builds a high degree of accuracy, knowledge, and independence for public school students with dyslexia or written language disorders;

(3) Annually convene the network of Certified Academic Language Therapists or dyslexia therapists in order to:

- (A) Provide updated guidance;
- (B) Create resources for public schools and parents, legal guardians, and persons standing in loco parentis of public school students; and
- (C) Review outcomes data for reading in this state; and

(4) Coordinate an International Multisensory Structured Language Education Council-accredited course to create additional pathways for certified teachers to develop proficiency in the science of reading in order to grow the network of dyslexia therapists.

(b) An education service cooperative may support the implementation of this section by providing additional dyslexia services through a consortium within the region.

History. Acts 2021, No. 1016, § 1.

SUBCHAPTER 7 — BUILDING BETTER FUTURES PROGRAM

- SECTION.
- 6-41-701. Program established — Purpose.
- 6-41-702. Definitions.

- SECTION.
- 6-41-703. Eligibility.
- 6-41-704. Program information.
- 6-41-705. Responsibilities.

Publisher’s Notes. The subject matter of former subchapter 7, concerning the Building Better Futures High School Program, is now codified as § 6-41-801 et seq. by Acts 2017, No. 432, § 2.

Acts 2015, No. 410, § 1, enacted a similar subchapter, which was not codified.

6-41-701. Program established — Purpose.

- (a) The Building Better Futures Program is established.
- (b) The purpose of the program is to allow students with intellectual disabilities to broaden their career opportunities through education and job training in an inclusive and age-appropriate environment.

History. Acts 2017, No. 432, § 1.

Publisher’s Notes. Former § 6-41-701 has been renumbered as § 6-41-801.

6-41-702. Definitions.

As used in this subchapter:

(1) "Approved institution" means a public or private nonprofit institution of higher education located in Arkansas that:

(A) Is accredited by the Higher Learning Commission; and

(B) Is approved or seeking approval by the United States Department of Education as a comprehensive transition and postsecondary program;

(2)(A) "Arkansas resident" means a recipient or a recipient's parent or guardian who is domiciled in Arkansas for at least twelve (12) months before applying for the Building Better Futures Program.

(B) A recipient or a recipient's parent or guardian may be asked to provide proof of domicile as evidenced by one (1) of the following:

(i) Information from the Free Application for Federal Student Aid;

(ii) Valid Arkansas driver's license;

(iii) Documentation of current payment for personal or real property taxes for the previous year;

(iv) Current vehicle registration;

(v) Current voter registration; or

(vi) Other forms that establish residency;

(3)(A) "Citizen" means a person who is a United States citizen or lawful permanent resident.

(B) If the person is a lawful permanent resident, he or she shall submit a copy of the lawful permanent resident form when submitting an application to the Building Better Futures Program;

(4) "Eligible student" means a person who satisfies the criteria established in this subchapter;

(5) "Intellectual disability" means a condition characterized by significant limitations in both intellectual functioning and in adaptive behavior:

(A) As defined by the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association; and

(B) Diagnosed by a physician, psychologist, or other individual qualified by license or statute to diagnose; and

(6) "Selective admission" means acceptance into the Building Better Futures Program is based on specific criteria that are used by each approved institution for its program.

History. Acts 2017, No. 432, § 1.

has been amended and renumbered as

Publisher's Notes. Former § 6-41-702 § 6-41-802.

6-41-703. Eligibility.

To be eligible for selective admission into a Building Better Futures Program, a student shall:

(1) Be a citizen;

(2)(A) Be an Arkansas resident.

(B) A nonresident may be eligible for the Building Better Futures Program if there are openings available after all Arkansas residents are admitted;

(3) Be selected for admission by an approved institution into the institution's comprehensive transition and postsecondary program or a program in the process of becoming a comprehensive transition and postsecondary program;

(4) Have an intellectual disability;

(5) Be able and willing to learn and participate in an inclusive classroom and work setting; and

(6) Not be a danger to himself or herself or others, as determined by the accepting institution of higher education.

History. Acts 2017, No. 432, § 1. has been amended and renumbered as
Publisher's Notes. Former § 6-41-703 § 6-41-803.

6-41-704. Program information.

A Building Better Futures Program implemented by an approved institution shall:

(1) Have a selective admission process for students with documented intellectual disabilities;

(2) Be exempt from the higher education state minimum core curriculum as determined by the Arkansas Higher Education Coordinating Board under § 6-61-218;

(3) Be exempt from Building Better Futures Program review by the board under §§ 6-61-207 and 6-61-208;

(4) Be part of a comprehensive transition and postsecondary program approved by the United States Department of Education within three (3) years of establishing the Building Better Futures Program at the approved institution;

(5) Allow a certificate to be awarded to a student who successfully completes the Building Better Futures Program; and

(6) Not permit hours completed in the Building Better Futures Program to be transferred toward credit for an associate or baccalaureate degree program.

History. Acts 2017, No. 432, § 1.

Publisher's Notes. Former § 6-41-704
has been renumbered as § 6-41-804.

6-41-705. Responsibilities.

(a)(1) An institution of higher education that wishes to establish a Building Better Futures Program on campus shall seek recognition as a comprehensive transition and postsecondary program by the United States Department of Education.

(2) Only approved institutions are eligible for funding for the Building Better Futures Program if funding is available.

(b)(1) The Division of Higher Education shall provide information statewide, including to each high school in the state, on the options for postsecondary education for students with intellectual disabilities.

(2) Each public high school in Arkansas shall provide the information distributed by the division to the parent or guardian of a student with an intellectual or developmental disability enrolled in the public high school.

(3) A public high school shall begin providing the information when transition services for a student are discussed at an annual review conference of the individualized education program committee meeting.

(c) A variety of sources may be used to support the Building Better Futures Program, including the costs associated with tuition and support services.

History. Acts 2017, No. 432, § 1.

has been amended and renumbered as

Publisher's Notes. Former § 6-41-705

§ 6-41-805.

SUBCHAPTER 8 — BUILDING BETTER FUTURES HIGH SCHOOL PROGRAM

SECTION.

6-41-801. Program established — Purpose.

6-41-802. Definitions.

SECTION.

6-41-803. Eligibility.

6-41-804. Program information.

6-41-805. Responsibilities.

Publisher's Notes. The subject matter of this subchapter was formerly codified as § 6-41-701 et seq.

Former § 6-41-801 et seq. was renumbered as § 6-41-901 et seq. by Acts 2017, No. 432, § 3.

Effective Dates. Acts 2015, No. 931, § 2: Apr. 2, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Building Better Futures High School Program will be established by the 2015-2016 school year; that immediate adoption is essential to ensure that eligible students are aware of the program and have the information necessary to apply; and that this act is immediately necessary to allow the Department of Higher Education time to implement the program and disseminate information to potentially eligible students. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Gov-

ernor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-41-801. Program established — Purpose.

(a) There is established a Building Better Futures High School Program.

(b) The purpose of the program is to allow students with intellectual disabilities to broaden their career opportunities in an inclusive and age-appropriate environment while completing the additional years of high school as allowed by law.

History. Acts 2015, No. 931, § 1; 2017, No. 432, § 2. formerly codified as § 6-41-701. Former § 6-41-801 has been renumbered as § 6-

Publisher's Notes. This section was 41-901.

6-41-802. Definitions.

As used in this subchapter:

(1) "Approved institution" means a public or private nonprofit institution of higher education located in Arkansas that:

(A) Is accredited by the Higher Learning Commission; and

(B) Is approved or seeking approval by the United States Department of Education as a comprehensive transition and postsecondary program;

(2)(A) "Arkansas resident" means a recipient or a recipient's parent or guardian who is domiciled in Arkansas for at least twelve (12) months before applying for the Building Better Futures High School Program.

(B) A recipient or a recipient's parent or guardian may be asked to provide proof of domicile as evidenced by one (1) of the following:

(i) Information from the Free Application for Federal Student Aid;

(ii) Valid Arkansas driver's license;

(iii) Documentation of current payment for personal or real property taxes for the previous year;

(iv) Current vehicle registration;

(v) Current voter registration; or

(vi) Other forms that establish residency;

(3)(A) "Citizen" means a person who is a United States citizen or lawful permanent resident.

(B) If the person is a lawful permanent resident, he or she shall submit a copy of the lawful permanent resident form when submitting an application to the program;

(4) "Eligible student" means a person who satisfies the criteria established in this subchapter;

(5) "Home school" means an educational program provided by the student's parent or guardian as permitted under § 6-15-501 et seq.;

(6) "Home-schooled student" means a student educated in a school provided by a parent or legal guardian for his or her own child;

(7) "Intellectual disability" means a condition characterized by significant limitations in both intellectual functioning and in adaptive behavior:

(A) As defined by the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association; and

(B) Diagnosed by a physician, psychologist, or other individual qualified by license or statute to diagnose; and

(8) "Selective admission" means acceptance into the program is based on specific criteria that are used by each approved institution for its program.

History. Acts 2015, No. 931, § 1; 2017, No. 432, § 2.

Publisher's Notes. This section was formerly codified as § 6-41-702. Former § 6-41-802 has been renumbered as § 6-41-902.

Amendments. The 2017 amendment substituted "Aid" for "Assistance" in

(2)(B)(i); substituted "Valid" for "A valid" in (2)(B)(ii); inserted (3) and redesignated the remaining subdivisions accordingly; inserted "Fifth Edition" in present (7)(A); and substituted "acceptance into the Building Better Futures High School Program" for "acceptance into the program" in present (8).

6-41-803. Eligibility.

To be eligible for selective admission into a Building Better Futures High School Program, a student shall:

(1) Be either:

(A)(i) A current student at a public high school who is currently served under an individualized education program.

(ii)(a) The parent or guardian of the student shall make a request to the student's individualized education program committee at least one (1) calendar year in advance of the Building Better Futures High School Program's application deadline that the student's individualized education program include participation, if admitted, in the nearest Building Better Futures High School Program.

(b) The student's individualized education program committee shall notify the parent or guardian within sixty (60) days of the parent's or guardian's making the request of whether or not participation in the Building Better Futures High School Program is deemed appropriate for the student to receive a free appropriate public education.

(iii) If the student's individualized education program committee determines that seeking admission to a Building Better Futures High School Program should be part of the student's individualized education program, the individualized education program committee shall submit an application to the nearest Building Better Futures High School Program located not more than fifty (50) miles from the public high school attended by the student; or

(B) A current private high school or home-schooled student;

(2) Be a citizen;

(3)(A) Be an Arkansas resident.

(B) A nonresident may be eligible for the Building Better Futures High School Program if there are openings available after all Arkansas residents are admitted;

- (4) Not have reached twenty-two (22) years of age;
- (5) Be selected for admission by an approved institution into the institution’s comprehensive transition and postsecondary program or a program in the process of becoming a comprehensive transition and postsecondary program;
- (6) Have an intellectual disability;
- (7) Be able and willing to learn and participate in an inclusive classroom and work setting; and
- (8) Not be a danger to himself or herself or others, as determined by the accepting institution of higher education.

History. Acts 2015, No. 931, § 1; 2017, No. 432, § 2.

Publisher’s Notes. This section was formerly codified as § 6-41-703. Former § 6-41-803 has been renumbered as § 6-41-903.

Amendments. The 2017 amendment substituted “individualized” for “indi-

vidual” throughout the section; added the current introductory language in (1); redesignated former (1)(A)-(C) as (1)(A)(i)-(iii); rewrote (1)(A)(ii)(a); added “or” at the end of present (1)(A)(iii); redesignated former (2) as (1)(B); inserted present (2); and made stylistic changes.

6-41-804. Program information.

A Building Better Futures High School Program implemented by an approved institution shall:

- (1) Have a selective admission process for students with documented intellectual disabilities;
- (2) Be exempt from the higher education state minimum core curriculum as determined by the Arkansas Higher Education Coordinating Board under § 6-61-218;
- (3) Be exempt from program review by the board under §§ 6-61-207 and 6-61-208;
- (4) Be part of a comprehensive transition and postsecondary program approved by the United States Department of Education within three (3) years of establishing the Building Better Futures High School Program at the approved institution;
- (5) Allow a certificate to be awarded to a student who successfully completes the Building Better Futures High School Program; and
- (6) Not permit hours completed in the Building Better Futures High School Program to be transferred towards credit for an associate or baccalaureate degree program.

History. Acts 2015, No. 931, § 1; 2017, No. 432, § 2.

formerly codified as § 6-41-704. Former § 6-41-804 has been renumbered as § 6-41-904.

Publisher’s Notes. This section was

6-41-805. Responsibilities.

- (a)(1) An institution of higher education that wishes to establish a Building Better Futures High School Program on campus shall seek recognition as a comprehensive transition and postsecondary program by the United States Department of Education.

(2) Only approved institutions are eligible for funding for the Building Better Futures High School Program if funding is available.

(b)(1) The Division of Higher Education shall provide information statewide, including to each high school in the state, on the options for postsecondary education for students with intellectual disabilities.

(2) Each public high school in Arkansas shall provide the information distributed by the Division of Higher Education to the parent or guardian of a student with an intellectual or developmental disability enrolled in the public high school.

(3) A public high school shall begin providing the information when transition services for a student are discussed at an annual review conference of the individualized education program committee meeting.

(c)(1) Nothing in this subchapter relieves a school district from satisfying the requirements of a student's individualized education plan.

(2)(A) The lack of an available Building Better Futures High School Program located within fifty (50) miles of a student's public high school or the failure of a Building Better Futures High School Program to admit a public school student is not a failure on the part of the public high school to provide a free and appropriate public school education under 34 C.F.R. § 300.507.

(B) A student who is dismissed from a Building Better Futures High School Program has no recourse against the student's public high school under 34 C.F.R. § 300.507.

(d) A public high school shall:

(1) Provide transportation for an admitted and eligible student to and from the closest approved Building Better Futures High School Program that is located no more than fifty (50) miles from the student's public high school; and

(2) Continue to provide activities of daily living skills to eligible students at the public high school campus in addition to other requirements of the student's individualized educational plan.

(e) Instructional and support staff for a student attending a Building Better Futures High School Program shall be provided by the institution providing the Building Better Futures High School Program while the student is on the campus of the institution.

(f)(1) With regard to the Building Better Futures High School Program, an institution of higher education shall not charge tuition and fees at a higher rate for secondary school students than for other students from the community.

(2) The tuition and fees shall be charged to the student's public high school and be proportionate to the student's participation in the Building Better Futures High School Program established by the student's individualized education program.

(g) A variety of sources may be used to support the Building Better Futures High School Program, including the costs associated with tuition and support services.

History. Acts 2015, No. 931, § 1; 2017, No. 432, § 2; 2019, No. 910, § 1788.

Publisher's Notes. This section was formerly codified as § 6-41-705. Former § 6-41-805 has been renumbered as § 6-41-905.

Amendments. The 2017 amendment substituted "individualized" for "individual" throughout the section; redesignated former (b) as (b)(1); in (b)(1), inserted "statewide, including to each high school in the state" and deleted "statewide

to each secondary school in the state" following "disabilities"; redesignated former (c)(1) and (c)(2) as (b)(2) and (b)(3); redesignated former (d) through (f) as (c) through (e); substituted "under" for "subject to" in present (c)(2)(A); redesignated former (h) as (f); and made stylistic changes.

The 2019 amendment substituted "Division of Higher Education" for "Department of Higher Education" in (b)(1) and (b)(2).

SUBCHAPTER 9 — SUCCEED SCHOLARSHIP PROGRAM

SECTION.

6-41-901. Definitions — Establishment — Intent.

6-41-902. Student eligibility.

6-41-903. Private school eligibility.

6-41-904. Responsibilities of scholarship recipients.

6-41-905. Scholarship payments — Funding — Definition.

SECTION.

6-41-906. Rules and duties.

6-41-907. Autonomy of participating schools.

6-41-908. Succeed scholarship biennial study.

A.C.R.C. Notes. This subchapter was formerly codified as § 6-41-801 et seq. and was renumbered as § 6-41-901 et seq. by Acts 2017, No. 432, § 3.

Effective Dates. Acts 2017, No. 327 § 2; Mar. 2, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there is a demand for more private schools to participate in the Succeed Scholarship Program; that allowing private schools who have applied for accreditation to be eligible to participate in the program will help meet that demand; and that this act is immediately necessary to ensure that these newly eligible private schools can serve students who have received Succeed Scholarships in the 2017-2018 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2017, No. 894 § 6; Apr. 5, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that improvements are needed in the methods available for the provision of education for foster children; that expanding the educational options for foster children will enhance the chances of foster children to become healthy, well-rounded adults; and that this act is immediately necessary to ensure that foster children are given the greatest chance of achieving that outcome. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new de-

partments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should

become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-41-901. Definitions — Establishment — Intent.

(a) As used in this subchapter:

(1) "Foster care" means the care of a child by a group home or group facility on a twenty-four-hour-a-day basis away from the home of the child's parent or parents;

(2) "Foster parent" means the responsible official or officials of a group home or group facility that provides foster care to a child;

(3) "Member of the uniformed services" means:

(A) An active duty or reserve component member of the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Space Force, or United States Coast Guard;

(B) A member of the National Guard;

(C) A member of the National Oceanic and Atmospheric Administration Commissioned Officer Corps; or

(D) A member of the active or reserve component of the United States Commissioned Corps of the Public Health Service;

(4) "Parent" means a student's parent or foster parent; and

(5) "Student with a disability" means students who have been:

(A) Identified by a public school district as having a disability consistent with the Individuals with Disabilities Education Act, 20 U.S.C. § 1401 et seq.; or

(B) Medically diagnosed by a licensed physician as a child with a disability under the Individuals with Disabilities Education Act, 20 U.S.C. § 1401(3)(A).

(b) The Succeed Scholarship Program is established and intended to provide a scholarship to a private school of choice for:

(1) Students in foster care as defined in this section;

(2) Students with a disability; or

(3) Students who are children of a member of the uniformed services.

History. Acts 2015, No. 1178, § 1; 2017, No. 432, § 3; 2017, No. 894, § 1; 2019, No. 548, § 1; 2021, No. 689, § 1; 2021, No. 741, §§ 1, 2.

Publisher's Notes. This section was formerly codified as § 6-41-801 and was renumbered as § 6-41-901 by Acts 2017, No. 432, § 3.

Amendments. The 2017 amendment by No. 894 added "Definitions — Establishment" to the section heading; added (a); redesignated former (a) as the introductory language of (b) and (b)(2); added (b)(1); deleted former (b); and made stylistic changes.

The 2019 amendment redesignated part

of (b)(2) as (b)(2)(A); added (b)(2)(B); and made stylistic changes.

The 2021 amendment by No. 689 substituted “subchapter” for “section” in the introductory language of (a); added the definition for “Member of the uniformed services” in (a) and added (b)(3).

The 2021 amendment by No. 741 substituted “subchapter” for “section” in the introductory language of (a); added the definition for “Student with a disability” in (a); inserted “as defined in this section” in (b)(1); and rewrote (b)(2).

6-41-902. Student eligibility.

(a) A parent or legal guardian of a student in this state may apply for a Succeed Scholarship to enroll his or her child in an approved private school in this state if:

(1)(A) The student is currently enrolled in a public school and has attended public school for at least one (1) full academic year.

(B) Subdivision (a)(1)(A) of this section does not apply if:

(i) The student is a dependent of an active duty member of any branch of the United States Armed Forces; or

(ii) The superintendent of the student’s resident school district in this state waives the requirement;

(2) The student:

(A) Is in foster care as defined in § 6-41-901 or has been in the foster care system and achieved permanency through adoption, reunification, or permanent guardianship;

(B) Has been identified by a public school district as having a disability consistent with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as evidenced by written notice of the decision from the public school district, or has been medically diagnosed by a licensed physician as a child with a disability under 20 U.S.C. § 1401(3)(A);

(C) Participated in the Succeed Scholarship Program during the prior school year and has not yet graduated from high school or attained twenty-one (21) years of age; or

(D) Is a child of a member of the uniformed services;

(3) The student has been accepted for admission into a private school in this state that is eligible to participate in the program;

(4) The parent has notified the student’s current school district of the request for a scholarship at least sixty (60) days before the date of the first scholarship payment; and

(5)(A) For students in foster care, the Department of Human Services approves the student’s placement in the private school.

(B) The department shall approve the student’s placement in the private school if a determination is made that placement in the private school is in the best interest of the student.

(b) If a student is accepted to a private school upon the availability of space, a parent or legal guardian shall notify the student’s school district at least sixty (60) days before the student enrolls in the private school and receives the first scholarship payment.

(c) The Division of Elementary and Secondary Education shall approve a maximum of twenty (20) scholarships under this subchapter per academic year for students in foster care.

(d) For purposes of continuity of educational choice, the program payments made under this subchapter shall remain in effect until a student who is participating in the program returns to a public school district or open-enrollment public charter school, graduates from high school, or attains twenty-one (21) years of age, whichever occurs first.

(e) An eligible student who is a child of a member of the uniformed services may receive a scholarship under this subchapter only if funds remain after all eligible students as described by subdivisions (a)(2)(A)-(C) of this section have received a scholarship under this subchapter.

History. Acts 2015, No. 1178, § 1; 2017, No. 432, § 3; 2017, No. 637, § 1; 2017, No. 894, §§ 2, 3; 2019, No. 548, § 2; 2019, No. 910, § 1789; 2019, No. 1078, §§ 1, 2; 2021, No. 689, §§ 2, 3; 2021, No. 741, § 3.

Publisher's Notes. This section was formerly codified as § 6-41-802 and was renumbered as § 6-41-902 by Acts 2017, No. 432, § 3.

Amendments. The 2017 amendment by No. 637 rewrote former (a)(1)(B) as the introductory language of (a)(1)(B) and (a)(1)(B)(i); and added (a)(1)(B)(ii).

The 2017 amendment by No. 894 deleted "with a disability" following "student" in the introductory language of (a); substituted "(a)(1)(A)" for "(1)(A)" in (a)(1)(B); added (a)(2)(A); redesignated part of (a)(2) as (a)(2)(B); and added (a)(5) and (c).

The 2019 amendment by No. 548 added "or an individualized service plan in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1412(a)(10)" in (a)(2)(B) [see now (a)(2)(D)].

The 2019 amendment by No. 910 substituted "Division of Elementary and Sec-

ondary Education" for "Department of Education" in (c).

The 2019 amendment by No. 1078 added "or has been in the foster care system and achieved permanency through adoption, reunification, or permanent guardianship" in (a)(2)(A); added "or has been medically diagnosed by a licensed physician as a child with a disability under 20 U.S.C. § 1401(3)(A)" in (a)(2)(B); and added (a)(2)(C), (a)(2)(D), and (d).

The 2021 amendment by No. 689 added (a)(2)(E) [now (a)(2)(D)] and (e).

The 2021 amendment by No. 741 rewrote the introductory language of (a); inserted "in this state" in (a)(1)(B)(ii); inserted "as defined in § 6-41-901" in (a)(2)(A); in (a)(2)(B), substituted "been identified by a public school district as having a disability consistent with" for "an individualized education program in accordance with", and inserted "as evidenced by written notice of the decision from the public school district"; deleted former (a)(2)(D); and, in (a)(3), inserted "in this state" and substituted "program" for "Succeed Scholarship Program".

6-41-903. Private school eligibility.

(a)(1) A private school shall notify the Division of Elementary and Secondary Education of its intent to participate in the Succeed Scholarship Program.

(2) The notice shall specify the grade levels and services that the private school has available for students with a disability who are participating in the program.

(b) The division shall approve a private school as eligible to participate in the program if the private school:

(1) Either:

(A) Meets the accreditation requirements set by the State Board of Education, the Arkansas Nonpublic School Accrediting Association, Inc., or its successor, or another accrediting association recognized by the state board as providing services to individuals with severe disabilities; or

(B)(i) Is an associate member of or has applied for accreditation by the Arkansas Nonpublic School Accrediting Association, Inc., or its successor, or another accrediting association recognized by the state board as providing services to individuals with severe disabilities.

(ii) A private school shall no longer be eligible if:

(a) The private school has not received accreditation within four (4) years of becoming eligible under subdivision (b)(1)(B)(i) of this section;

(b) The accrediting association determines that the private school is ineligible or unable to continue the accreditation process; or

(c) It becomes impossible for the private school to obtain accreditation within four (4) years.

(iii) A private school that becomes ineligible under subdivision (b)(1)(B)(ii) of this section shall regain eligibility when the private school receives accreditation.

(iv) A private school that is not fully accredited shall report annually to the state board its progress towards accreditation;

(2)(A) Demonstrates fiscal soundness by having been in operation for one (1) school year or providing the division with a statement by a certified public accountant confirming that the private school is insured and the private school has sufficient capital or credit to operate in the upcoming school year.

(B) In lieu of a statement, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the division;

(3) Complies with the antidiscrimination provisions of 42 U.S.C. § 2000d;

(4) Meets state and local health and safety requirements;

(5) Is academically accountable to the parent or legal guardian for meeting the educational needs of the student;

(6) Employs or contracts with teachers who hold baccalaureate or higher degrees;

(7) Complies with all state laws and rules governing private schools; and

(8) Adheres to the tenets of its published disciplinary procedures before an expulsion of a student receiving a scholarship.

(c) The division shall maintain a list of private schools eligible to participate in the program and make the list available on the division's website.

(d)(1)(A) An eligible private school shall administer annually or make provisions for a student participating in the program to take a nationally recognized norm-referenced test as established by the state board.

(B) A list, in a deidentified format, of students who have taken a nationally recognized norm-referenced test under subdivision (d)(1)(A) of this section and the students' test results shall be forwarded annually to the state board or its designee.

(2)(A) A student who is determined by the private school to need an exemption to standardized testing due to the nature of the student's disability is not required to take the test required under subdivision (d)(1)(A) of this section.

(B) A list, in a deidentified format, of students with an exemption to standardized testing under subdivision (d)(2)(A) of this section shall be provided annually to the state board or its designee.

(3)(A) An eligible private school shall annually prepare a portfolio that provides information on a student's progress to the student's parent or guardian if a student is exempt from standardized testing as permitted under subdivision (d)(2)(A) of this section.

(B) A list, in a deidentified format, of students with portfolios under subdivision (d)(3)(A) of this section and a general summary of the information provided in the portfolios shall be provided annually to the state board or its designee.

(4)(A) An eligible private school under this section shall submit annually to the division or its designee, in a deidentified format required by the Bureau of Legislative Research in consultation with the division, a:

(i) Report that lists all students who have received a Succeed Scholarship under this subchapter who have been dismissed from the program by the private school;

(ii) Report that lists all students who have received a Succeed Scholarship under this subchapter who have voluntarily returned to a traditional public school;

(iii) List of foster children who have:

(a) Entered the program;

(b) Been dismissed from the program; or

(c) Been removed from the program by the Department of Human Services;

(iv) Report of administrative costs required to implement the program; and

(v) Report regarding the demographic data of students who have applied for the Succeed Scholarship under this subchapter and students who were awarded the Succeed Scholarship under this subchapter, including without limitation the geographic location in the state of the students who are participating in the program.

(B) The division shall make information received from eligible private schools under subdivision (d)(4)(A) of this section available to the House Committee on Education and the Senate Committee on Education in a deidentified format specified by the bureau in consultation with the division.

(5) All information under this subsection shall be included in the program biennial study under § 6-41-908.

(e)(1) The division shall prepare and submit annually or obtain from its designated administrator for the program under this subchapter a report, in a deidentified format required by the bureau in consultation with the division, that indicates the:

(A) List of students who have received a Succeed Scholarship under this subchapter;

(B) Eligible private school attended by each student who has received a Succeed Scholarship under this subchapter; and

(C) Amount of each Succeed Scholarship received by a student under this subchapter.

(2) In addition to the report required under subdivision (e)(1) of this section, the division shall make information received from its designated administrator regarding the program under this subchapter available to the House Committee on Education and the Senate Committee on Education through the bureau.

History. Acts 2015, No. 1178, § 1; 2017, No. 327, § 1; 2017, No. 432, § 3; 2017, No. 894, § 4; 2019, No. 315, § 324; 2019, No. 548, §§ 3, 4; 2019, No. 827, §§ 3-5; 2019, No. 910, §§ 1790-1793; 2021, No. 741, §§ 4, 5.

Publisher's Notes. This section was formerly codified as § 6-41-803 and was renumbered as § 6-41-903 by Acts 2017, No. 432, § 3.

Amendments. The 2017 amendment by No. 327 redesignated former (b)(1) as (b)(1)(A); added "Either" as the introductory language of present (b)(1); and added (b)(1)(B).

The 2017 amendment by No. 894, in (a)(2), added "If the private school intends to enroll students with disabilities who have an individualized education program in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq." and substituted "Succeed Scholarship Program" for "program".

The 2019 amendment by No. 315 substituted "rules" for "regulations" in (b)(7).

The 2019 amendment by No. 548 inserted "or an individualized service plan in accordance with the Individuals with

Disabilities Education Act, 20 U.S.C. § 1412(a)(10)" in (a)(2); and inserted "or an individualized service plan" in (d)(2) [now (d)(2)(A)].

The 2019 amendment by No. 827 added (b)(1)(B)(iv); redesignated (d)(1) as (d)(1)(A); substituted "Succeed Scholarship Program" for "scholarship program" in (d)(1)(A); added (d)(1)(B); redesignated (d)(2) as (d)(2)(A); added (d)(2)(B); redesignated (d)(3) as (d)(3)(A); added (d)(3)(B), (d)(4), and (e); and updated internal references.

The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a)(1); and substituted "division" for "department" throughout (b) and (c).

The 2021 amendment rewrote (a)(2); in (d)(2)(A), substituted "who is determined by the private school to need" for "with an individual education plan or an individualized service plan that provides for", and inserted "due to the nature of the student's disability"; and deleted "an individual education plan that provides for" preceding "an exemption" in (d)(2)(B).

6-41-904. Responsibilities of scholarship recipients.

(a) The parent or legal guardian of a Succeed Scholarship Program recipient shall:

(1) Select the private school from the list of private schools eligible to participate in the program that is maintained by the Division of Elementary and Secondary Education;

(2) Apply for the scholarship at least sixty (60) days before the date of the first scholarship payment and notify the superintendent of the student's resident school district within five (5) business days of submitting the application;

(3) Fully comply with the parental involvement requirements of the private school unless excused by the school for illness or other good cause;

(4) Sign a waiver that releases the State of Arkansas from any legal obligation to provide services or education to the student participating in the program except for funding provided for the program under the rules established by the State Board of Education;

(5) Sign a waiver that releases the student's resident school district from any legal obligation to provide services or education to the student participating in the program while the student is not enrolled in the student's resident school district as provided under the rules established by the state board; and

(6) Notify the state board or the state board's designee if the student ceases to be enrolled in or regularly attend the private school for any reason.

(b) A student participating in the program shall:

(1) Attend the private school throughout the school year unless excused by the school for illness or other good cause; and

(2) Comply fully with the code of conduct for the private school.

(c) The state board may terminate the scholarship of a student if the student or the student's parent or guardian materially fails to comply with the responsibilities under this section.

History. Acts 2015, No. 1178, § 1; 2017, No. 432, § 3; 2019, No. 910, § 1794.

Publisher's Notes. This section was formerly codified as § 6-41-804 and was renumbered as § 6-41-904 by Acts 2017, No. 432, § 3.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a)(1).

6-41-905. Scholarship payments — Funding — Definition.

(a) The maximum scholarship available under the Succeed Scholarship Program is the foundation funding amount for the current school year under § 6-20-2305.

(b)(1) The amount of the scholarship shall be the amount calculated under subsection (a) of this section or the amount of tuition and fees for the private school, whichever is less.

(2)(A) As used in this subsection, "tuition and fees" means expenses determined by a private school to be necessary for the education of a student and required to be paid by a student who is enrolled in the private school, including without limitation expenses related to enrollment, supplies, equipment, access to technology, and services.

(B) "Tuition and fees" does not include optional expenses payable to a third party.

(c) Scholarship payments shall be disbursed in equal amounts on a monthly basis by the Division of Elementary and Secondary Education or another state agency, person, firm, or corporation designated by the division to administer and disburse funds.

(d) Beginning on July 1, 2015, the division shall prepare a budget, including cost estimates and projections so that a separate appropriation can be made for the program for the 2016-2017 school year.

(e) The program shall be funded separately from the Public School Fund and other funds or appropriations designated for public schools.

(f) The program shall not be funded with county, city, or school district tax revenues.

History. Acts 2015, No. 1178, § 1; 2017, No. 432, § 3; 2019, No. 910, § 1795; 2021, No. 741, § 6.

Publisher's Notes. This section was formerly codified as § 6-41-805 and was renumbered as § 6-41-905 by Acts 2017, No. 432, § 3.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of Education" in (c); and substituted "division" for "department" in (c) and (d).

The 2021 amendment redesignated (b) as (b)(1), and added (b)(2).

6-41-906. Rules and duties.

(a)(1) The State Board of Education shall adopt rules and develop notices and other documentation necessary to administer the Succeed Scholarship Program, including without limitation rules concerning the method for applying for a scholarship, that are in the best interest of students.

(2)(A) The state board may promulgate rules and develop a process to award scholarships using a lottery selection process if parent applications exceed the number of available scholarships.

(B)(i) Twenty (20) scholarships shall be reserved for students in foster care during the initial lottery each year if a lottery selection process is used.

(ii) Any remaining scholarships shall be made available to students with a disability through the lottery process if fewer than twenty (20) students in foster care apply for a scholarship and are eligible for a scholarship before the initial lottery.

(C) A weighted lottery may only be used when necessary to comply with a:

(i) Federal court order; or

(ii) Federal administrative order issued by an appropriate federal agency having proper authority to enforce remedial measures necessary to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of the federal Education Amendments of 1972, or the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

(b) The state board shall not:

(1) Become a party to a contract between a participating school and a student's parent or guardian. However, the state board shall make payments to a participating school as long as a student is enrolled and

attending the participating school in good standing as required under § 6-41-904; or

(2) Make payments to a participating school after the state board is notified from either the participating school or a student's parent or guardian that the student is no longer enrolled or attending the participating school.

History. Acts 2015, No. 1178, § 1; 2017, No. 432, § 3; 2021, No. 741, § 7.

Publisher's Notes. This section was formerly codified as § 6-41-806 and was renumbered as § 6-41-906 by Acts 2017, No. 432, § 3.

Amendments. The 2021 amendment redesignated (a) as (a)(1), inserted "including without limitation rules concerning the method for applying for a scholarship" in (a)(1), and added (a)(2).

6-41-907. Autonomy of participating schools.

(a) A private school that participates in the Succeed Scholarship Program is not considered an agent or instrumentality of the State of Arkansas or a school district.

(b) The curriculum and education plan for a student with a disability attending a private school is not subject to the regulatory authority of the State Board of Education.

(c) As a condition of continued participation in the program, the state board may require a participating school that is receiving funds from the program to certify on a semiannual basis under oath that a student is and has been enrolled and attending the participating school except for excused absences.

History. Acts 2015, No. 1178, § 1; 2017, No. 432, § 3. formerly codified as § 6-41-807 and was renumbered as § 6-41-907 by Acts 2017,

Publisher's Notes. This section was No. 432, § 3.

6-41-908. Succeed scholarship biennial study.

(a) The House Committee on Education and the Senate Committee on Education shall conduct biennially a study of the Succeed Scholarship Program under this subchapter to determine the following information without limitation:

(1) The number of students currently participating in the program;

(2) The number of students currently participating in the program who attended a traditional public school before receiving a Succeed Scholarship;

(3) The number of students currently participating in the program who did not attend a traditional public school before enrolling in a private school upon receipt of a Succeed Scholarship;

(4) The number of students who have been dismissed from the program by a private school that is receiving funds through the program;

(5) The number of students who attended a private school with a Succeed Scholarship and voluntarily returned to a traditional public school;

(6) The number of children in foster care who have entered the program, have been dismissed from the program, or have been removed from the program by the Department of Human Services;

(7) The number of private schools receiving Succeed Scholarship funds that are currently accredited by the Arkansas Nonpublic School Accrediting Association, Inc., its successor, or another accrediting association recognized by the State Board of Education;

(8) The number of private schools receiving Succeed Scholarship funds that are currently unaccredited but have applied for accreditation to the Arkansas Nonpublic Accrediting Association, Inc., its successor, or another accrediting association recognized by the state board, and where those schools are in the accreditation process;

(9) The number of students who are enrolled in the program and who have taken a nationally recognized norm-referenced test and received the test results;

(10) The number of students who are enrolled in the program and have been exempted from standardized testing requirements under § 6-41-903; and

(11) The number of student portfolios that have been developed for exempt students and a general summary of the information contained in the student portfolios as required under § 6-41-903.

(b) In addition to the above information, the House Committee on Education and the Senate Committee on Education shall:

(1) Review norm-referenced test results and student portfolios; and

(2) Provide comparative data regarding student performance in the program.

(c) The House Committee on Education and the Senate Committee on Education shall compile a final report that includes the findings under subsections (a) and (b) of this section on a biennial basis, with the first report due on March 1, 2020.

History. Acts 2019, No. 827, § 2; 2021, No. 741, § 8.

A.C.R.C. Notes. Acts 2019, No. 827, § 1, provided: “Legislative intent. The General Assembly finds that:

“(1) Efficient use of the state’s tax dollars is a paramount priority;

“(2) Policymakers should have updated information in order to make well-informed policy decisions; and

“(3) To ensure efficient use of the state’s tax dollars, there should exist documenta-

tion regarding how public funds are being spent by private institutions that receive public funds.”

Amendments. The 2021 amendment, in (a)(10), deleted “with individualized education programs under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.” following “students” and substituted “program” for “Succeed Scholarship Program”.

CHAPTER 42

GIFTED AND TALENTED CHILDREN

SUBCHAPTER.

1. GENERAL PROVISIONS.

2. ARKANSAS SCHOOL FOR MATHEMATICS AND SCIENCES. [REPEALED.]

SUBCHAPTER.

3. ARKANSAS SCHOOL FOR MATHEMATICS, SCIENCES, AND THE ARTS.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

6-42-101. Policy.

6-42-102. Rules — Reports.

6-42-103. Office for the Education of Gifted and Talented Children.

6-42-104. Advisory Council for the Education of Gifted and Talented Children.

SECTION.

6-42-105. Disbursing agency.

6-42-106. Gifted and talented programs — Funding and eligibility.

6-42-107. Cooperation with other agencies.

6-42-108. Summer residential and day programs.

6-42-109. Reports by school districts.

Effective Dates. Acts 1997, No. 250, § 258; Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-42-101. Policy.

It is the policy of this state to assist school districts in providing programs designed to meet the unique educational needs of gifted and talented children.

History. Acts 1979, No. 106, § 1; A.S.A. 1947, § 80-5201.

RESEARCH REFERENCES

ALR. Special education requirements of gifted students. 115 A.L.R.5th 183.

6-42-102. Rules — Reports.

The State Board of Education shall have the authority to promulgate such rules and require such reports as it deems advisable.

History. Acts 1979, No. 106, § 5; A.S.A. 1947, § 80-5205; Acts 2019, No. 315, § 325.

Amendments. The 2019 amendment deleted “and regulations” following “rules” in the section heading and in the section.

RESEARCH REFERENCES

ALR. Special education requirements of gifted students. 115 A.L.R.5th 183.

6-42-103. Office for the Education of Gifted and Talented Children.

To implement the policy stated in § 6-42-101, there is established in the Division of Learning Services of the Division of Elementary and Secondary Education an Office for the Education of Gifted and Talented Children to be headed by an administrator who shall be qualified by education, training, and experience to direct the state program for gifted and talented children.

History. Acts 1979, No. 106, § 1; A.S.A. 1947, § 80-5201; Acts 2019, No. 910, § 1796.

substituted “Division of Elementary and Secondary Education” for “Department of Education”.

Amendments. The 2019 amendment

6-42-104. Advisory Council for the Education of Gifted and Talented Children.

(a)(1) There is established an Advisory Council for the Education of Gifted and Talented Children, which shall advise and consult with the Commissioner of Elementary and Secondary Education and the Administrator of the Office for the Education of Gifted and Talented Children and which shall engage in other activities as set forth in this section.

(2) The council shall be advisory only and shall have no administrative responsibility.

(b)(1) The council shall consist of nine (9) members who are not officers or employees of state agencies and no more than four (4) of whom may be officers or employees of school districts.

(2) The council shall be composed of persons interested in the education of gifted and talented children.

(c)(1) The Governor, subject to confirmation by the Senate, shall appoint the members of the council for terms of three (3) years.

(2) A member may be eligible for reappointment for one (1) additional term.

(d) Vacancies that leave unexpired terms shall be filled in the regular manner for the unexpired period of time, and vacancies as a result of expiration of terms shall be filled in the regular manner for three-year periods.

(e)(1) The council annually shall elect its own chair and vice chair.

(2) The administrator shall act as secretary to the council.

(f) The Division of Elementary and Secondary Education shall, within available personnel, facilities, and appropriations, furnish meeting facilities and staff services for the council.

(g) The members of the council may receive expense reimbursement in accordance with § 25-16-901 et seq.

(h) The council shall:

(1) Have an opportunity to comment on rules proposed for issuance pursuant to this subchapter;

(2) Consider any problems presented to it by the commissioner or the administrator and give advice thereon;

(3) Review state plans prepared by the Office for the Education of Gifted and Talented Children before their submission to duly constituted authorities;

(4)(A) Make an annual report to the Governor, the General Assembly, the State Board of Education, and the commissioner, which shall be made available to the news media so that the general public may be informed regarding educational programs for gifted and talented children.

(B)(i) Funds for the publication of the annual report of the council shall be made available by the division from its regular appropriations.

(ii) Available federal and state funds may be used for this purpose;

(5) Participate with the staff of the division in determining the need for educational programs to serve gifted and talented children to be operated by the division, in selecting the sites for educational programs, in establishing student selection criteria for participation in the programs, in selecting students to participate in the programs, and in selecting faculty and staff for the programs; and

(6)(A) Select on an annual basis not more than three (3) educational programs for gifted and talented students operated by school districts for recognition as outstanding programs.

(B) The programs so recognized shall be eligible to receive an award of not more than three thousand dollars (\$3,000) from funds appropriated to the division for the purpose of making awards to outstanding educational programs.

History. Acts 1979, No. 106, § 3; 1983 (1st Ex. Sess.), No. 55, § 1; 1983 (1st Ex. Sess.), No. 56, § 1; A.S.A. 1947, § 80-5203; Acts 1997, No. 250, § 19; 2019, No. 315, § 326; 2019, No. 910, §§ 1797-1800.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (h)(1).

The 2019 amendment by No. 910 substituted “Commissioner of Elementary

and Secondary Education” for “Commissioner of Education” in (a)(1); substituted “Division of Elementary and Secondary

Education” for “Department of Education” in (f); and substituted “division” for “department” in (h)(5) twice and in (h)(6)(B).

6-42-105. Disbursing agency.

The Department of Education is designated as the state agency to receive and disburse federal funds designed to improve educational opportunities for gifted and talented children and shall develop such plans and procedures as may be required in order to receive and disburse such federal funds.

History. Acts 1979, No. 106, § 4; A.S.A. 1947, § 80-5204.

6-42-106. Gifted and talented programs — Funding and eligibility.

(a)(1) Appropriations made by the General Assembly to the Public School Fund for the purposes of this subchapter shall be disbursed by the Division of Elementary and Secondary Education in accordance with rules promulgated by the State Board of Education.

(2) Such funds may be used to provide financial assistance to school districts operating programs for gifted and talented children and to fund supplemental programs for gifted and talented children operated by the division directly or through contract with other public or private agencies.

(3) All school districts are eligible to make application for payments under this subchapter, and two (2) or more districts may submit an application for a cooperative program.

(b)(1) Specific eligibility requirements for gifted and talented programs in each school district shall be determined by the school district board of directors.

(2) In order to qualify for such financial assistance as may be available from the state, school district eligibility requirements must be consistent with the guidelines for gifted and talented programs adopted by the state board with the advice of the Advisory Council for the Education of Gifted and Talented Children.

History. Acts 1979, No. 106, § 2; A.S.A. 1947, § 80-5202; Acts 2019, No. 315, § 327; 2019, No. 910, § 1801.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in (a)(1).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a)(1); and substituted “division” for “department” in (a)(2).

6-42-107. Cooperation with other agencies.

The State Board of Education is authorized to cooperate with other public and private agencies in developing programs for gifted and talented children.

History. Acts 1979, No. 106, § 4; A.S.A. 1947, § 80-5204.

6-42-108. Summer residential and day programs.

(a) The Division of Elementary and Secondary Education is authorized to establish annual summer residential and day programs to provide enriched educational offerings for junior high and high school students who have demonstrated exceptional abilities in a specific subject area.

(b) Each program shall offer instruction in subject areas to be designated annually by the division from the subject areas of science, mathematics, computer science, social studies, arts and music, literature and communication, and foreign languages.

(c) The summer educational programs established pursuant to the authority of this section shall be operated by the division directly or by contract with other public or private agencies and shall be funded from the appropriation to the division for the operation of programs for the education of gifted and talented students.

History. Acts 1983 (1st Ex. Sess.), No. 3, §§ 1, 2; A.S.A. 1947, §§ 80-5206, 80-5207; Acts 1989, No. 693, § 1; 2019, No. 910, § 1802.

Amendments. The 2019 amendment

substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a); and substituted "division" for "department" in (b) and twice in (c).

6-42-109. Reports by school districts.

Each school district shall report annually to the Division of Elementary and Secondary Education, at a prescribed due date, the extent to which it is providing educational opportunities specifically designed to meet the educational needs of gifted and talented children.

History. Acts 1979, No. 106, § 5; A.S.A. 1947, § 80-5205; Acts 2019, No. 910, § 1803.

Amendments. The 2019 amendment

substituted "Division of Elementary and Secondary Education" for "Department of Education".

SUBCHAPTER 2 — ARKANSAS SCHOOL FOR MATHEMATICS AND SCIENCES

[Repealed.]

SECTION.

6-42-201 — 6-42-206. [Repealed.]

6-42-201 — 6-42-206. [Repealed.]

Publisher's Notes. This subchapter, concerning the Arkansas School for Mathematics and Sciences, was repealed by Acts 2003, No. 1305, § 7. The subchapter was derived from the following sources:

6-42-201. Acts 1991, No. 259, § 1; 1991,

No. 305, § 1; 1995, No. 558, § 1; 1995, No. 559, § 1; 1997, No. 1326, § 1.

6-42-202. Acts 1991, No. 259, § 1; 1991, No. 305, § 1; 1995, No. 558, § 2; 1995, No. 559, § 2.

6-42-203. Acts 1991, No. 259, § 1; 1991,

No. 305, § 1; 1993, No. 293, § 1; 1995, No. 558, § 3; 1995, No. 559, § 3; 1997, No. 250, § 20.
6-42-204. Acts 1991, No. 259, § 1; 1991, No. 305, § 1; 1995, No. 558, § 4; 1995, No. 559, § 4.

6-42-205. Acts 1991, No. 259, § 1; 1991, No. 305, § 1; 1995, No. 558, § 5; 1995, No. 559, § 5.
6-42-206. Acts 1995, No. 558, § 6; 1995, No. 559, § 6.

SUBCHAPTER 3 — ARKANSAS SCHOOL FOR MATHEMATICS, SCIENCES, AND THE ARTS

SECTION.
6-42-301. Arkansas School for Mathematics, Sciences, and the Arts.
6-42-302. Purpose — Location — Funding — Tuition.
6-42-303. Board of Visitors.
6-42-304. Board of Visitors — Purposes.
6-42-305. Administrator — Staff.
6-42-306. Division of Elementary and Secondary Education rules.

SECTION.
6-42-307. School for Math, Sciences, and Arts Fund.
6-42-308. School qualifies as local education agency.
6-42-309. Charter school option.
6-42-310. School district access provided to the Arkansas School for Mathematics, Sciences, and the Arts.

Effective Dates. Acts 2003 (2nd Ex. Sess.), No. 22, § 3: Dec. 31, 2003. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in Lake View District No. 25 v. Huckabee, 351 Ark 31 (2002) declared the existing system of education to be unconstitutional because it is both inequitable and inadequate; that this act assists the Arkansas School for Mathematics, Sciences, and the Arts to be eligible for federal grants, and allows the school the flexibility to become a charter school; and that this act is immediately necessary to assist the Arkansas School for Mathematics, Sciences, and the Arts. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”
Acts 2015 (1st Ex. Sess.), Nos. 7 and 8, § 153: July 1, 2015. Emergency clause provided: “It is found and determined by

the General Assembly of the State of Arkansas that the Arkansas Building Authority, the Arkansas Science and Technology Authority, the Department of Rural Services, and the Division of Land Surveys of the Arkansas Agriculture Department are inefficiently structured; that this inefficient structuring causes an excessive and unnecessary cost to the taxpayers of the this state; and that this act is essential to alleviating that financial burden. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2015.”
Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the

fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through

6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-42-301. Arkansas School for Mathematics, Sciences, and the Arts.

(a) The Board of Trustees of the University of Arkansas is authorized to establish and operate, as a part thereof, a campus to be known as the “Arkansas School for Mathematics, Sciences, and the Arts”, consolidating and incorporating into the University of Arkansas the facilities of the state institution formerly known as the “Arkansas School for Mathematics and Sciences”, which together with its board of trustees is abolished as a separate institution effective January 1, 2004.

(b) On January 1, 2004, the Board of Trustees of the University of Arkansas shall be vested with and succeed to all the rights, titles, powers, interests, properties, assets, funds, and credits of the Arkansas School for Mathematics and Sciences and the Board of Trustees of the Arkansas School for Mathematics and Sciences, including all rights, titles, and interests in and to all real and personal property acquired by or vested in that institution or the Board of Trustees of the Arkansas School for Mathematics and Sciences.

(c) On January 1, 2004, the appropriate state officials are directed to transfer all funds, appropriations, credits, and equities belonging to the Arkansas School for Mathematics and Sciences and the Board of Trustees of the Arkansas School for Mathematics and Sciences so that these funds, appropriations, credits, and equities shall be credited to and made available for the Board of Trustees of the University of Arkansas for use on its Arkansas School for Mathematics, Sciences, and the Arts campus.

(d) On January 1, 2004, the Board of Trustees of the Arkansas School for Mathematics and Sciences shall relinquish all responsibility, control, and supervision concerning the Arkansas School for Mathematics and Sciences, and by delivery of the assets, books of accounts, and files of that institution to the Board of Trustees of the University of Arkansas shall be divested of all obligations and duties applicable to the Arkansas School for Mathematics and Sciences.

History. Acts 2003, No. 1305, § 1.

6-42-302. Purpose — Location — Funding — Tuition.

(a) The Arkansas School for Mathematics, Sciences, and the Arts shall be a residential high school for students who exhibit outstanding academic credentials and who have the ability to undertake course work in an environment and with demands similar to those of a university.

(b)(1) The purposes of the school shall be to educate the gifted and talented math, science, and the fine and performing arts students of the state and to develop curricula and materials to improve instruction in mathematics, sciences, and the fine and performing arts for all students in the state.

(2) The school's curriculum, faculty, and admissions policies shall reflect the purposes described by this section.

(c) While the emphasis of the school shall be dedicated to the academic teaching of mathematics, sciences, and the fine and performing arts, emphasis may also be placed upon other areas of the arts and humanities as deemed appropriate by the Board of Trustees of the University of Arkansas.

(d) The board shall maintain the Arkansas School for Mathematics, Sciences, and the Arts in Hot Springs as a campus of the University of Arkansas, offering at that location the highest possible quality of educational programs as set forth in this subchapter.

History. Acts 2003, No. 1305, § 2; substituted "high school for students" for 2017, No. 718, § 1. . "school for eleventh grade and twelfth

Amendments. The 2017 amendment grade students" in (a).

6-42-303. Board of Visitors.

(a)(1) There is established a Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts.

(2) The persons serving on December 31, 2003, as members of the Board of Trustees of the Arkansas School for Mathematics and Sciences shall be members of the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts and shall continue to serve for terms equal to the unexpired portions of their terms as members of the Board of Trustees of the Arkansas School for Mathematics and Sciences.

(3) The Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts shall consist of seven (7) members appointed by the Governor for seven-year terms.

(4) As initial terms expire and when vacancies occur, the Governor shall appoint a person to fill each vacancy for the remaining portion of the unexpired term.

(5) Appointments shall be for terms of seven (7) years or for the remaining portion of an unexpired term.

(b)(1) In addition to possessing the qualifications of an elector, each member of the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts appointed by the Governor shall reside in the State of Arkansas.

(2) One (1) member shall be appointed from each congressional district, and the remaining members shall be appointed from the state at large.

(3)(A) In addition to appointed members of the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts, nine (9)

ex officio nonvoting members shall also serve on the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts as follows:

- (i) The Commissioner of Elementary and Secondary Education;
- (ii) The Director of the Division of Higher Education;
- (iii) The Director of the Arkansas Economic Development Commission or his or her designee;
- (iv) The Director of the Division of Arkansas Heritage;
- (v) The president of the parent association of the school;
- (vi) The president of the student government of the school;
- (vii) The president of the faculty and staff Governing Council of the Arkansas School for Mathematics, Sciences, and the Arts;
- (viii) The Chair of the Association for Alumni and Friends of ASMSA, or his or her designee; and
- (ix) The Chair of the ASMSA Foundation Fund Board of Ambassadors, or his or her designee.

(B) The terms of office of an ex officio nonvoting member shall continue so long as he or she occupies the position or office.

(c)(1)(A) The Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts shall meet at least quarterly as the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts determines and shall elect from its voting members a chair, a vice chair, and a secretary.

(B) With prior notice to all members, special meetings may be called as needed by either the chair or any three (3) of the voting members of the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts.

(2) Regular minutes of its meetings shall be preserved.

History. Acts 2003, No. 1305, § 3; 2015 (1st Ex. Sess.), No. 7, § 69; 2015 (1st Ex. Sess.), No. 8, § 69; 2017, No. 718, § 2; 2019, No. 910, § 1804; 2021, No. 354, § 1.

Amendments. The 2017 amendment substituted “at least quarterly” for “monthly” in (c)(1)(A).

The 2019 amendment substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (b)(3)(A)(i); substituted “Division of Higher Education” for “Department of Higher Education” in (b)(3)(A)(ii);

substituted “Director of the Arkansas Economic Development Commission” for “Executive Director of the Arkansas Economic Development Commission” in (b)(3)(A)(iii); and substituted “Division of Arkansas Heritage” for “Department of Arkansas Heritage” in (b)(3)(A)(iv).

The 2021 amendment substituted “nine (9) ex officio nonvoting members” for “six (6) ex officio nonvoting members” in the introductory language of (b)(3)(A); and added (b)(3)(A)(vii)-(ix).

6-42-304. Board of Visitors — Purposes.

(a)(1)(A) The general purpose of the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts is to perform a supporting and advising role with regard to the operation of the Arkansas School for Mathematics, Sciences, and the Arts.

(B) The Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts may recommend implementation and estab-

lishment of policies consistent with policies of the Board of Trustees of the University of Arkansas.

(C) The Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts shall serve as a liaison between the school, parents and other constituents, the President of the University of Arkansas, and the Board of Trustees of the University of Arkansas.

(D) Because the Board of Trustees of the University of Arkansas and the president may delegate broad administrative responsibilities to the Administrator of the Arkansas School for Mathematics, Sciences, and the Arts consistent with policies established or approved by the Board of Trustees of the University of Arkansas, the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts will have the opportunity to give meaningful advice and recommendations to further the development and operation of the school.

(2) The Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts shall:

(A) Assist in securing financial support for the school;

(B) Advise the administrator of the school and the president and the Board of Trustees of the University of Arkansas regarding the educational, service, and financial needs of the school;

(C) Accept and execute specific assignments made by the Board of Trustees of the University of Arkansas and the president;

(D) Keep informed on those matters that are necessary to promote the educational aims of the school for the benefit of the students;

(E) Study in detail the reports and issues placed before it by the Board of Trustees of the University of Arkansas; and

(F) Promote in diverse ways the growth and development in excellence of the school and the University of Arkansas in general.

(3) The Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts shall have oversight coordination as specifically assigned by the Board of Trustees of the University of Arkansas, which may include oversight responsibility with respect to the school's operating budget, internal governance, and methods of operations.

(4) Communications, including advice and recommendations, from the Board of Visitors for the Arkansas School for Mathematics, Sciences, and the Arts shall be transmitted through the administrator of the school and by him or her through the president to the Board of Trustees of the University of Arkansas.

(b) The school shall be funded by moneys appropriated by the General Assembly for the operation of the school and by grants, contributions, or donations that may be received for the support of the school.

(c)(1) Students who are residents of this state selected to attend the school shall not be required to pay tuition, fees, or room and board.

(2) Students who are residents of other countries selected to attend the school shall pay the cost of tuition, fees, and room and board as established by the Board of Trustees of the University of Arkansas.

(d) Any student who is a senior at the school shall have the option of participating in activities and events with and in the same manner as

other members of the graduating class in his or her home school district, including, but not limited to, the following:

- (1) The prom or banquet;
- (2) Class Day activities;
- (3) Graduation activities;
- (4) Recognition as a honor graduate except as valedictorian or salutatorian; and
- (5) Class pictures, including yearbook and composite pictures.

History. Acts 2003, No. 1305, § 4; repealed (a)(2)(C); redesignated former (c) 2017, No. 718, §§ 3, 4. as (c)(1); added (c)(2); and inserted “who

Amendments. The 2017 amendment are residents of this state” in (c)(1).

6-42-305. Administrator — Staff.

(a)(1) The Administrator of the Arkansas School for Mathematics, Sciences, and the Arts shall be the chief administrative officer of the school and shall administer the Arkansas School for Mathematics, Sciences, and the Arts in accordance with policies established by the Board of Trustees of the University of Arkansas.

(2) The administrator shall be employed by the Board of Trustees of the University of Arkansas after appropriate advice and counsel of the Board of Visitors of the Arkansas School for Mathematics, Sciences, and the Arts.

(b) Upon recommendation of the administrator, the Board of Trustees of the University of Arkansas shall employ other personnel as it deems necessary for the operation of the school.

(c)(1) Instructors shall be employed by the Board of Trustees of the University of Arkansas and shall have such rights, privileges, and obligations as the Board of Trustees of the University of Arkansas shall determine except that they shall not be eligible for tenure.

(2) In the event that policies of the Board of Trustees of the University of Arkansas conflict with existing law with respect to terms and conditions of employment of instructors and staff, the policies shall control.

(d) Instructors and staff of the school shall continue to be eligible for membership in the Arkansas Teacher Retirement System and to earn credited service for employment at the school or, at their election, shall be eligible to participate in the retirement system of the University of Arkansas.

History. Acts 2003, No. 1305, § 5; deleted “nor carry professional rank” in 2021, No. 354, § 2. (c)(1) at the end.

Amendments. The 2021 amendment

6-42-306. Division of Elementary and Secondary Education rules.

All Division of Elementary and Secondary Education rules shall apply to the Arkansas School for Mathematics, Sciences, and the Arts

unless the division determines otherwise or unless the rules conflict with governance of the school by the Board of Trustees of the University of Arkansas and the purposes and intent of this subchapter.

History. Acts 2003, No. 1305, § 6; Secondary Education” for “Department of 2019, No. 910, § 1805. Education” in the section heading and in

Amendments. The 2019 amendment the text, and substituted “division” for substituted “Division of Elementary and department”.

6-42-307. School for Math, Sciences, and Arts Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the “School for Math, Sciences, and Arts Fund”.

(b) The fund shall be used to provide for the maintenance, operation, and improvement required by the Arkansas School for Mathematics, Sciences, and the Arts in carrying out its powers, functions, and duties as set out by law.

(c) The fund shall consist of moneys allocated and transferred from the Educational Excellence Trust Fund, any general revenues as may be provided by the Revenue Stabilization Law, § 19-5-101 et seq., and any other moneys as may be authorized by law.

History. Acts 2003, No. 1305, § 9.

6-42-308. School qualifies as local education agency.

(a) The General Assembly designates that the Arkansas School for Mathematics, Sciences, and the Arts meets the definition of a “local education agency” because the Arkansas School for Mathematics, Sciences, and the Arts is a public authority legally constituted within this state to perform a service function for public secondary schools and is a public institution or agency having administrative control and direction of a secondary school.

(b) This section intends to recognize the function of the Arkansas School for Mathematics, Sciences, and the Arts and to provide eligibility to the Arkansas School for Mathematics, Sciences, and the Arts to receive federal funds.

(c) Nothing in this section shall permit the Arkansas School for Mathematics, Sciences, and the Arts to receive funds from the Public School Fund except pursuant to a line item appropriation.

History. Acts 2003 (2nd Ex. Sess.), No. 22, § 1.

6-42-309. Charter school option.

(a) The Board of Trustees of the University of Arkansas may petition the State Board of Education for the Arkansas School for Mathematics, Sciences, and the Arts to receive public charter school status under the Arkansas Quality Charter Schools Act of 2013, § 6-23-101 et seq.

(b) If the petition is granted, funding for the public charter school shall be made pursuant to an appropriation by the General Assembly for the Arkansas School for Mathematics, Sciences, and the Arts.

History. Acts 2003 (2nd Ex. Sess.), No. 22, § 1.

6-42-310. School district access provided to the Arkansas School for Mathematics, Sciences, and the Arts.

Upon a written request made by the Arkansas School for Mathematics, Sciences, and the Arts, a school district shall provide reasonable access to the school district campus for the purpose of contacting students regarding potential enrollment at the Arkansas School for Mathematics, Sciences, and the Arts.

History. Acts 2007, No. 51, § 1.

CHAPTER 43

ARKANSAS SCHOOL FOR THE BLIND AND ARKANSAS SCHOOL FOR THE DEAF

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS SCHOOL FOR THE BLIND.
3. ARKANSAS SCHOOL FOR THE DEAF.

A.C.R.C. Notes. Acts 1995, No. 687, §§ 1-4 provided: "SECTION 1. It is hereby found and determined by the General Assembly that the State of Arkansas holds title to certain hereinafter described lands which adjoin the lands on which the Arkansas School for the Blind and the Arkansas School for the Deaf are located and which are held for the use and benefit of the two schools; that the lands are currently under a fifty year lease to the Arkansas Easter Seal Society for a rental of one dollar (\$1.00) per year; that the Board of Trustees for the Arkansas School for the Blind and Arkansas School for the Deaf desires to sell such lands and the improvements thereon; that it is in the best interests of the State of Arkansas and of the Arkansas School for the Blind and the Arkansas School for the Deaf that the Board of Trustees of the schools be authorized to sell the land and improvements thereon at a reasonable price and that the proceeds of the sale be divided between the Arkansas School for the Blind, the

Arkansas School for the Deaf and the Arkansas Easter Seal Society; and that it is the purpose and intent of this act to authorize such sale and the division of the proceeds.

"SECTION 2. The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf is hereby authorized to negotiate for the sale of and to sell the hereinafter described lands which are held in the name of the State of Arkansas for the use and benefit of the Arkansas School for the Blind and the Arkansas School for the Deaf. The board is further authorized to divide the proceeds from the sale of the land and the improvements thereon with the Arkansas Easter Seal Society, Inc., with the board receiving an amount equivalent to the appraised value of the lands exclusive of the improvements thereon, and with the Arkansas Easter Seal Society receiving the balance of the proceeds.

"SECTION 3. All proceeds derived from the sale of lands exclusive of the

improvements thereon as authorized herein shall be used exclusively for the benefit of the Arkansas School for the Blind and the Arkansas School for the Deaf.

“SECTION 4. The following described lands may be sold pursuant to and in accordance with the provisions of this act and any such sale shall be exempt from the procedures and requirements of Arkansas Code 22-6-601 and any other laws relating to the sale of lands by state agen-

cies:
“Beginning at the Northwest corner of Section Four (4), Township One (1) North, Range Twelve (12) West; thence along the North Line of said Section Four (4) for a distance of 900 feet; thence South for a distance of 500 feet, thence West 900 feet to the West line of said Section Four (4); thence North along the West line of said Section Four (4) for a distance of 500 feet to the point of beginning in Pulaski County, Arkansas.”

RESEARCH REFERENCES

ALR. Educational placement of handicapped children. 23 A.L.R.4th 740.

SUBCHAPTER 1 — GENERAL PROVISIONS

- SECTION.
- 6-43-101. Board of trustees.
 - 6-43-102. Powers and duties of board.
 - 6-43-103. Superintendents.
 - 6-43-104. Employees generally.
 - 6-43-105. Attendance — Enforcement.
 - 6-43-106. Deaf and blind children — Out-of-state facilities.
 - 6-43-107. Application for admission — Certificate of residence.
 - 6-43-108. Removal of pupils.
 - 6-43-109. Clothing and traveling expenses — Generally.

- SECTION.
- 6-43-110. Clothing and travel expenses — Warrants.
 - 6-43-111. Funeral expenses.
 - 6-43-112. Transportation of students.
 - 6-43-113. Compensation limitation.
 - 6-43-114. Applicability of § 21-8-304.
 - 6-43-115. [Repealed.]
 - 6-43-116. Special allowance.
 - 6-43-117. Dual position occupancy.

Effective Dates. Acts 1875 (Adj. Sess.), No. 65, § 8: approved Dec. 14, 1875. Effective date clause provided: “All laws and parts of laws inconsistent with this act are hereby repealed, and this act take effect and be in force from and after its passage.”
Acts 1893, No. 154, § 6: approved Apr. 12, 1893. Effective date clause provided: “That this act take effect and be in force from and after its passage.”
Acts 1925, No. 117, § 7: approved Feb. 27, 1925. Emergency clause provided: “This act, being necessary for the immediate preservation of the public peace, health and safety an emergency is hereby declared to exist, shall take effect and be in force from and after its passage.”
Acts 1927, No. 37, § 19: June 30, 1927.

Acts 1943, No. 1, § 9: Jan. 14, 1943. Emergency clause provided: “It is hereby found and declared that amendment No. 33 to the Constitution of the State of Arkansas, which will become effective on January 15, 1943, provides that the General Assembly shall arrange the terms of office of the members of boards charged with the management or control of all charitable, penal or correctional institutions and institutions of higher learning of the State of Arkansas in such manner that the term of office of one member of said board shall expire each year and that said amendment further provides that the unexpired terms of members serving on the effective date of the amendment shall not be decreased; and, it is further found and

declared that the terms of members of all of said Boards do not expire in a manner which will make operative all of the provisions of said amendment. It is found, therefore, that delay in the effective date of this act will create confusion by reason of the uncertain status of present board members, and, that in order to preserve the public peace, health and safety, an emergency is hereby declared to exist, and this act shall take effect and be in full force from and after its passage and approval."

Acts 1979, No. 497, § 3: Mar. 21, 1979. Emergency clause provided: "It is hereby found and determined by the General Assembly that it is necessary to provide that one member of the Board of Trustees of the Arkansas School for the Blind and Arkansas School for the Deaf be a deaf person fluent in sign language; that such is not now required, and that this is immediately necessary to provide such requirement. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 356, § 13: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the Seventy-Third General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this act on July 1, 1981 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1981 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

Acts 1981, No. 446, § 16: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the Seventy-Third General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness

of this Act on July 1, 1981 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1981 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

Acts 1989 (1st Ex. Sess.), No. 263, § 16: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1989 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1989 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Acts 1993, No. 496, § 18 and No. 497, § 20: July 1, 1993. Emergency clause provided: "It is hereby found and determined by the Seventy-Ninth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1993 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1993 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health

and safety shall be in full force and effect from and after July 1, 1993."

Acts 1995, No. 810, § 19: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 957, § 20: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1995, No. 1192, § 7: Apr. 11, 1995. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is important to the education and welfare of the students at the Arkansas School for the Blind and the Arkansas School for the Deaf that they receive instruction from caring and qualified individuals; that there is currently a demand for persons qualified in deaf and blind instruction; that persons who are qualified to give

instruction in blind and deaf education oftentimes are related to other persons also qualified to give that instruction; that enabling such persons to work together to provide quality education benefits the students at the Arkansas School for the Blind and the Arkansas School for the Deaf; that in order to ensure that such qualified persons are not precluded from providing much needed services to the Arkansas School for the Blind or the Arkansas School for the Deaf it is necessary that this act become effective immediately. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor [sic], it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1012, § 20: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1999 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1999 could work irreparable harm upon

the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1999."

Acts 1999, No. 1013, § 25: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1999 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1999 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the

public peace, health and safety shall be in full force and effect from and after July 1, 1999."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-43-101. Board of trustees.

(a) There is created an honorary board constituting the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf.

(b)(1) The board shall consist of five (5) members.

(2) The Governor, by and with the advice and consent of the Senate, shall appoint the members of the board.

(3) The Secretary of State shall furnish a certificate to each board member within ten (10) days following appointment, whereupon the appointee shall notify the Governor and the Secretary of State in writing of his or her acceptance of the appointment within thirty (30) days, and if the appointee fails to give notice of his or her acceptance within the time required, then the appointment shall be declared void and another appointment shall be made.

(c)(1) Members of the board appointed by the Governor under the provisions of this section, in addition to possessing the qualifications of an elector, shall reside in the State of Arkansas.

(2)(A) The Governor, Attorney General, Secretary of State, Auditor of State, Treasurer of State, Commissioner of State Lands, Supreme Court Justices, and the directing head of any state department, state agency, or state institution shall be ineligible for membership on the board provided for in this section during the time for which he or she was elected or appointed.

(B) No individual may be a member of more than one (1) of the boards created under the provisions of this section and § 25-17-201 at the same time.

(3) There shall be at all times one (1) member of the board who is a deaf person who fluently utilizes deaf sign language.

(d)(1) The term of office for each member shall commence on January 15 and shall end on January 14 of the fifth year following the year in which the regular term commenced.

(2)(A) The Governor shall submit to the Senate for approval, on or before the fourteenth day following the commencement of each regular session of the General Assembly, the names of all unconfirmed appointments made by him or her to fill expired terms and the names of appointments to fill the terms expiring during the regular session of the General Assembly.

(B) The members appointed by the Governor to fill vacancies caused by the expiration of the terms of members may qualify and hold office until the appointments are rejected by the Senate.

(e) Any vacancies arising in the membership of the board for any reason other than the expiration of the regular terms for which the members were appointed shall be filled by the appointment of the Governor, subject to the approval by a majority of the remaining members of the board, and shall be thereafter effective until the expiration of the regular terms.

(f)(1) Before entering upon his or her respective duties, each board member shall take and subscribe and file in the office of the Secretary of State an oath to support the United States Constitution and the Arkansas Constitution and to faithfully perform the duties of the office upon which he or she is about to enter and that he or she will not be or become interested, directly or indirectly, in any contract made by the board.

(2)(A) Any violation of the oath shall be a Class B misdemeanor.

(B) Any contract entered into in violation of the oath shall be void.

(g) The board shall meet at least monthly and shall fix a regular date for the monthly meeting.

(h) Each member of the board may receive expense reimbursement in accordance with § 25-16-901 et seq.

(i)(1) The Governor shall have the power to remove any member of the board before the expiration of his or her term for cause only, after notice and hearing.

(2) The removal shall become effective only when approved in writing by a majority of the total number of the board, but the member removed or his or her successor shall have no right to vote on the question of removal.

(3) The removal action shall be filed with the Secretary of State, together with a complete record of the proceedings at the hearing.

(4)(A) An appeal may be taken to the Pulaski County Circuit Court by the Governor or the member ordered removed, and the appeal shall be tried de novo on the record of the hearing before the Governor.

(B) An appeal may be taken from the circuit court to the Supreme Court, which shall likewise be tried de novo.

History. Acts 1927, No. 37, § 15; Pope's Dig., § 12801; Acts 1943, No. 1, §§ 2, 4-6; 1979, No. 497, § 1; 1981, No. 356, § 8; 1981, No. 446, § 11; A.S.A. 1947, §§ 7-201, 7-203, 7-203.1, 7-204, 7-205, 7-206.1, 7-207; Acts 1993, No. 294, § 16; 1997, No. 250, § 21; 2005, No. 1994, § 387.

Publisher's Notes. Arkansas Constitution, Amendment 33, Section 1 provided in part that the terms of office of five-member boards are five years. The terms

are arranged so that the term of one member expires in each year.

The provisions of Acts 1943, No. 1 that established honorary boards and commissions governing state institutions are codified as § 25-17-201 et seq.

Acts 1979, No. 497, § 1, is also codified as § 25-17-205.

Cross References. Meetings, regulations with respect to, §§ 25-17-208, 25-17-211.

6-43-102. Powers and duties of board.

(a) The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf created in § 6-43-101 is charged with the management and control of the Arkansas School for the Blind and the Arkansas School for the Deaf.

(b) The board shall have the power, authority, and duties formerly conferred by law on the board it succeeds including those set forth below:

(1) The board shall exercise such powers of supervision and control as are not specifically reserved to superintendents; and

(2) The board, in consultation with the Secretary of the Department of Education, shall fix the salaries of officers and employees not already fixed by law.

History. Acts 1927, No. 37, § 12; Pope's Dig., § 12798; Acts 1943, No. 1, § 3; A.S.A. 1947, §§ 7-202, 7-208; Acts 2019, No. 910, § 1806.

Publisher's Notes. The board created in § 6-43-101 succeeded to all the power, authority, and duties of the board charged with the management or control of the Arkansas School for the Blind and the

Arkansas School for the Deaf under Acts 1927, No. 37, which was abolished by Acts 1943, No. 1, § 1.

As to codification of Acts 1943, No. 1, see Publisher's Notes to § 6-43-101.

Amendments. The 2019 amendment inserted "in consultation with the Secretary of the Department of Education" in (b)(2).

CASE NOTES

Cited: Doe v. Barger, 193 F. Supp. 2d 1112 (E.D. Ark. 2002).

6-43-103. Superintendents.

(a) The immediate conduct and management of the Arkansas School for the Blind and the Arkansas School for the Deaf shall be entrusted to superintendents.

(b) The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf, in consultation with the Secretary of

the Department of Education, shall select the superintendents of the institutions committed to its care.

(c)(1) Each of the superintendents shall be required to give bond in a sum fixed by the board, payable to the State of Arkansas, for the faithful discharge of his or her duties and the proper accounting for all moneys and property coming into his or her possession as such officer.

(2) The bonds shall be made by any surety company authorized to do business in Arkansas, approved by the Governor, filed in the office of the Secretary of State, and paid for by the state out of current expenses appropriated by the respective institutions.

(d) The superintendents of the schools shall be required to give their entire time to the management and operation of their respective institutions and shall be selected because of their previous training and fitness to care for the schools entrusted to their care.

History. Acts 1927, No. 37, §§ 12-14; Pope’s Dig., §§ 12798-12800; A.S.A. 1947, §§ 7-208 — 7-210; Acts 2019, No. 910, § 1807.

A.C.R.C. Notes. The operation of subsection (c) of this section was suspended by adoption of a self-insured fidelity bond program for public officers, officials and employees, effective July 20, 1987, pursu-

ant to § 21-2-701 et seq. The subsection may again become effective upon cessation of coverage under that program. See § 21-2-703.

Amendments. The 2019 amendment inserted “in consultation with the Secretary of the Department of Education” in (b).

CASE NOTES

Cited: *Lindsay v. White*, 212 Ark. 541, 206 S.W.2d 762 (1947); *Doe v. Barger*, 193 F. Supp. 2d 1112 (E.D. Ark. 2002).

6-43-104. Employees generally.

(a) The superintendents shall have power to select and engage all employees of the schools at salaries fixed by the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf in consultation with the Secretary of the Department of Education, reporting the same for approval to the board at the next regular meeting thereof.

(b) The superintendents shall have the power to remove employees of the respective schools and may remove any employee at any time in their discretion for cause, but, in case of removal, the superintendent shall report the removal and the ground therefor to the board and the secretary.

History. Acts 1927, No. 37, § 14; Pope’s Dig., § 12800; Acts 1963, No. 514, § 1; A.S.A. 1947, § 7-210; Acts 1995, No. 1192, § 1; 2019, No. 910, § 1808.

Amendments. The 2019 amendment

inserted “in consultation with the Secretary of the Department of Education” in (a); and, in (b), deleted “sole” preceding “power” and added “and the Secretary of the Department of Education”.

Cross References. Reimbursement for interpreter services for deaf, § 21-5-218.

CASE NOTES

Discharge of Employees.

The decision by the board to eliminate positions at the Arkansas School for the Blind did not amount to a discharge of individual employees for cause, such that it would infringe upon the power reserved

solely to the superintendent under the statute. *Stephens v. Ark. Sch. for Blind*, 341 Ark. 939, 20 S.W.3d 397 (2000).

Cited: *Lindsay v. White*, 212 Ark. 541, 206 S.W.2d 762 (1947).

6-43-105. Attendance — Enforcement.

(a) Every parent, guardian, or other person having control of any minor over eight (8) years of age who is defective in hearing or sight to the extent that he or she cannot be benefited by instruction in the public schools shall be required to send such a minor to the Arkansas School for the Deaf or the Arkansas School for the Blind.

(b) The minor shall continue to attend the schools for a term of at least thirty-two (32) weeks each year until he or she has completed the course of instruction prescribed for the schools by the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf or any other body or person designated by law to have control of the schools, respectively, or until he or she has been discharged by the superintendent of the school.

(c) The deaf or blind minor shall be exempt from attendance at the schools for any of the following reasons:

(1) Instruction by a private tutor or in another school approved by the board or any other body or person designated by law to have control of the schools for a time equal to that required by subsection (b) of this section;

(2) Physical incapacity for school work; or

(3) Any other reason deemed good and sufficient by the superintendent of the school with the approval of the board.

(d)(1) Failure for a period of one (1) week within the school year to send such a minor to school shall constitute an offense.

(2) However, the time necessary for such a minor to travel from his or her home to Little Rock shall not be counted as time absent from school.

(e) Any person who induces or attempts to induce such deaf or blind minor to absent himself or herself from school or who employs or harbors such a minor unlawfully while the schools are in session shall be guilty of a violation and upon conviction shall be fined not less than twenty dollars (\$20.00) nor more than fifty dollars (\$50.00) for each offense.

(f) It shall be the duty of county boards, or the boards' designees, school attendance officers, prosecuting attorneys, and any special attendance officers appointed by the Arkansas School for the Deaf and

the Arkansas School for the Blind as well as all peace officers to enforce the provisions of this section.

(g) Any parent, guardian, or other person in charge of such a minor or minors who fails or refuses to comply with the requirements of this section shall be guilty of a violation and upon conviction shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each offense.

History. Acts 1925, No. 117, §§ 1-6; 80-2402 — 80-2406; Acts 1993, No. 294, Pope's Dig., §§ 12900-12905; Acts 1973, § 16; 2005, No. 1994, § 71. No. 253, § 4; A.S.A. 1947, §§ 80-2401,

6-43-106. Deaf and blind children — Out-of-state facilities.

(a) The Arkansas School for the Blind is authorized to expend available funds for the purpose of sending children under twenty-one (21) years of age, who are deaf as well as blind and for which there are no facilities for education in this state, to any school, institution, or other place outside the State of Arkansas providing a qualified program of education for such children.

(b) The funds may be spent for room, board, tuition, transportation, and other items which are necessarily relevant to the education of such children.

(c) In interpreting and carrying out the provisions of this section, the words "deaf-blind children", wherever used, will be construed to include any child whose combination of disabilities of deafness and blindness would prevent him or her from profiting satisfactorily from educational programs now provided for the blind child or the deaf child by the State of Arkansas.

(d) The school is authorized to determine if such children should be sent to such out-of-state facilities.

(e) The school is authorized to promulgate such rules as it deems necessary and proper for carrying out the purposes and intent of this section.

History. Acts 1959, No. 249, § 1; A.S.A. 1947, § 80-2401.1; Acts 2019, No. 315, § 328. **Amendments.** The 2019 amendment deleted "and regulations" following "rules" in (e).

6-43-107. Application for admission — Certificate of residence.

Whenever application is made for the admission of any blind or Deaf, deaf, or Hard of Hearing person into the Arkansas School for the Blind or the Arkansas School for the Deaf, as a beneficiary of the privileges thereof, the application shall be accompanied by the certificate of the county judge that the person is a legal resident of the county of the State of Arkansas in which it is claimed that he or she resides.

History. Acts 1875, (Adj. Sess.), No. 65, Pope's Dig., §§ 12834, 12884; A.S.A. 1947, § 1, p. 134; C. & M. Dig., §§ 9369, 9481; § 80-2414; Acts 2021, No. 84, § 3.

Amendments. The 2021 amendment substituted “Deaf, deaf, or Hard of Hearing” for “hearing impaired”.

6-43-108. Removal of pupils.

(a)(1) Whenever it shall be deemed necessary by the proper officers of either the Arkansas School for the Blind or the Arkansas School for the Deaf, in accordance with the bylaws and rules thereof, to have pupils removed, either temporarily on account of ill health or the vacation of the Arkansas School for the Blind or the Arkansas School for the Deaf, or permanently on account of having completed their course of instruction or having been found disqualified, from any cause, for a longer continuance in the Arkansas School for the Blind or the Arkansas School for the Deaf, the parents, or guardians, if they have any, of such pupils shall promptly remove them upon the requirement of the officers.

(2) In case they shall not be thus provided for, it shall be the duty of the superintendent or principal of such institution to cause them to be so removed to their houses or delivered to the proper officers of the counties in which they may reside.

(b)(1) The expense of removal shall be refunded to each institution in the same manner as is provided in § 6-43-109.

(2) The county sheriff may collect it in the same manner as is provided in § 6-43-109.

History. Acts 1875 (Adj. Sess.), No. 65, § 6, p. 134; C. & M. Dig., §§ 9374, 9486; Pope’s Dig., §§ 12839, 12889; A.S.A. 1947, § 80-2424; Acts 2019, No. 315, § 329.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (a)(1).

6-43-109. Clothing and traveling expenses — Generally.

(a) When such persons, upon proper application, are admitted as pupils of either the Arkansas School for the Blind or the Arkansas School for the Deaf, it shall be the duty of their parents, guardians, or other friends to suitably provide them with clothing at the time of their entrance into the Arkansas School for the Blind or the Arkansas School for the Deaf, and during their continuance therein, and to defray their traveling expenses to and from the institution, not only at the time of their first entrance and final departure but at any other time when it shall become necessary for them to leave or return to the Arkansas School for the Blind or the Arkansas School for the Deaf.

(b)(1)(A) In all cases in which suitable clothing and means for defraying traveling expenses are not otherwise supplied to the pupils of the schools, suitable clothing and means of defraying travel expenses shall be provided by the superintendent or principal of the respective schools, who shall make out and file with the Auditor of State accounts for the clothing and travel expenses, separate in each case, against the respective counties from which such pupils are sent, in an amount not exceeding forty dollars (\$40.00) per annum for any one (1) pupil.

(B) The accounts shall be severally signed by the proper superintendent or principal.

(2) The Auditor of State shall draw his or her warrant on the Treasurer of State for the amounts, which shall be paid out of any money in the State Treasury not otherwise appropriated.

(3) However, the amount drawn by either institution for the afore-said purposes per year shall not exceed two thousand dollars (\$2,000).

(4) Each account thus certified shall be charged to the county from which the pupil named therein was sent.

(5)(A) The Auditor of State shall forward a certified copy of each account so filed with him or her to the sheriff of the proper county, who shall proceed to collect the account in the name of the State of Arkansas, as other debts are collected, and the money so collected shall be paid over to the Treasurer of State, who shall give receipts therefor as in case of other moneys paid into the State Treasury.

(B) However, if the sheriff shall be unable to collect the amount of any bill from the parents or estate of any pupil, then the bill shall be refunded to the state out of the county treasury.

History. Acts 1875 (Adj. Sess.), No. 65, 12837, 12885-12887; A.S.A. 1947, §§ 80-§§ 2-4, p. 134; C. & M. Dig., §§ 9370-2415 — 80-2417. 9372, 9482-9484; Pope's Dig., §§ 12835-

6-43-110. Clothing and travel expenses — Warrants.

(a) It shall be the duty of the sheriffs of this state to receive from the county clerks all warrants ordered by their respective county courts by virtue of § 6-43-109(b)(5) and present them to the county treasurer for payment.

(b)(1) The county treasurer of the proper county shall pay the warrants on presentation from any money on hand and appropriated for pauper purposes.

(2) However, if there is no money in the county treasurer's hands from which to pay off the warrants, he or she shall endorse the fact on the warrants, date and sign the endorsement, and return them to the sheriff.

(c)(1) The Treasurer of State is authorized to receive from the several sheriffs and collectors of the state any and all such warrants as may be ordered and issued in payment for clothing and expenses of indigent pupils in the Arkansas School for the Blind or the Arkansas School for the Deaf by the county courts of the counties that are or may be liable for such expenses.

(2) The warrants shall be drawn in favor of the state, shall state on their face the name of the pupil or inmate whose expenses are thereby refunded, and shall be endorsed as required by subsection (b) of this section.

(d) The Treasurer of State is authorized to apply such county warrants so received in payment of the Auditor of State's warrants drawn in favor of the counties for funds received from sales or redemption of lands in lieu of any currency in his or her hands from the

source belonging to the respective counties whose warrants he or she holds, replacing the county warrants with the currency.

(e) The State Board of Finance may biennially in October make such disposition of the county warrants so received and not converted into par funds, as provided in subsection (d) of this section, as shall in the judgment of the board be for the best interest of the state and shall order the proper adjustment of the account of the county warrants on the books of the Treasurer of State and Auditor of State.

History. Acts 1893, No. 154, §§ 1-5; C. 12894; A.S.A. 1947, §§ 80-2418 — 80- & M. Dig., §§ 9377-9381, 9487-9491; 2422.
Pope's Dig., §§ 12842-12846, 12890-

6-43-111. Funeral expenses.

In case of the death of any pupil at the Arkansas School for the Blind or the Arkansas School for the Deaf, when funeral expenses are not otherwise provided for, an account thereof shall be made out, certified to, collected, and applied as provided in § 6-43-109.

History. Acts 1875 (Adj. Sess.), No. 65, Pope's Dig., §§ 12838, 12888; A.S.A. 1947, § 5, p. 134; C. & M. Dig., §§ 9373, 9485; § 80-2423.

6-43-112. Transportation of students.

The Arkansas School for the Deaf and the Arkansas School for the Blind are hereby authorized to transport students to and from school in chartered vehicles that are licensed to do business in the State of Arkansas and which meet minimum safety standards established by the United States Department of Transportation.

History. Acts 1989 (1st Ex. Sess.), No. 263, § 12.

6-43-113. Compensation limitation.

(a) No employee drawing a salary or other form of compensation from the Arkansas School for the Blind or the Arkansas School for the Deaf shall be paid an additional salary or receive additional compensation, other than reimbursement for actual expenses, from that agency, nor from any other agency or institution of higher education, except from the superintendent's written certification to and approval by the Chief Fiscal Officer of the State that the work performed by the employee for the other position does not interfere with the proper and required performance of the employee's primary duties and that the combined salary payments from both positions will not exceed the maximum annual salary for whichever of the two (2) positions has the higher authorized maximum annual salary.

(b) Any employee knowingly violating the provisions of this section shall be subject to immediate termination and shall be barred from employment by any agency or institution of the State of Arkansas for a

period of not less than three (3) years or until the employee shall repay to the State of Arkansas any sums received by the employee in violation of this section, together with interest at a rate of ten percent (10%) per annum.

History. Acts 1993, No. 496, § 12; 1995, No. 957, § 14; Acts 2013, No. 1138, 1993, No. 497, § 14; 1995, No. 810, § 12; § 76.

6-43-114. Applicability of § 21-8-304.

Section 21-8-304 relating to nepotism, ethics, or conflicts of interest which are applicable to state agencies and state employees generally shall hereafter be applicable to the Arkansas School for the Blind and the Arkansas School for the Deaf and to the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf and employees of those institutions.

History. Acts 1995, No. 1192, § 3.

6-43-115. [Repealed.]

Publisher's Notes. This section, concerning additional compensation for employees, was repealed by Acts 2013, No. 1138, § 77. The section was derived from Acts 1997, No. 1005, § 12; 1997, No. 1086, § 12.

6-43-116. Special allowance.

(a) The Arkansas School for the Blind and the Arkansas School for the Deaf may make special allowances available to any employee who performs one (1) of the following duties in addition to his or her normal duties:

- (1) Teaching adult education classes on weekends or evenings;
 - (2) Coaching one (1) or more sports;
 - (3) Sponsoring a club or organization that involves additional hours outside the normal working day; or
 - (4) Interpretive services.
- (b) Compensation for additional duties may not exceed three thousand dollars (\$3,000) per school term for any one (1) employee during each fiscal year.

History. Acts 1999, No. 1012, § 11; 1999, No. 1013, § 11.

6-43-117. Dual position occupancy.

The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf shall employ and maintain a separate superintendent and secondary principal as authorized by law for each school. In no event shall any one (1) person employed as a superintendent or principal for either school occupy more than one (1) position at one (1) time.

History. Acts 1999, No. 1012, § 13; 1999, No. 1013, § 18.

SUBCHAPTER 2 — ARKANSAS SCHOOL FOR THE BLIND

SECTION.

- 6-43-201. Board of trustees — Eligibility.
- 6-43-202. Records of board's proceedings.
- 6-43-203. Rules.
- 6-43-204. General control of property and institutional affairs.
- 6-43-205. Real and personal property.
- 6-43-206. Materials and supplies.
- 6-43-207. Approval of building expenditures.
- 6-43-208. Superintendent.
- 6-43-209. General business manager.
- 6-43-210. Performance of duties by employees.
- 6-43-211. Qualifications of teachers.
- 6-43-212. Employment of operatives to make repairs and cultivate grounds.
- 6-43-213. Salaries.

SECTION.

- 6-43-214. Admissions.
- 6-43-215. Expulsions.
- 6-43-216. Use of buildings during vacation period.
- 6-43-217. Sale of articles made by students.
- 6-43-218. Financial aid to graduates attending postsecondary educational institutions.
- 6-43-219. Sacred Scriptures and copy of United States Constitution presented to blind pupils.
- 6-43-220. Records of purchasing agent.
- 6-43-221. Report of school officers.
- 6-43-222. Record of allowances — Statement of expenditures.
- 6-43-223. Reports — Publication.

Publisher's Notes. Acts 1859, No. 97 incorporated the Arkansas Institute for the Blind. Acts 1866, No. 10 provided that the institute should be established at Arkadelphia, and Acts 1868, No. 50, §§ 1-4 moved the institute from Arkadelphia to Little Rock and provided for a new governing body.

Acts 1879, No. 64, § 1 provided that the Arkansas Institute for the Education of the Blind would thereafter be the Arkansas School for the Blind and that all laws and parts of laws in relation to the institute would apply to the Arkansas School for the Blind. The section further provided that all contracts made with the institute and all legacies, bequests, or gifts made to the institute would be binding upon and belong to the Arkansas School for the Blind.

Effective Dates. Acts 1868, No. 50, § 29: effective on passage.

Acts 1893, No. 159, § 9: approved Apr. 12, 1893. Effective date clause provided: "That all laws and parts of laws in conflict with this act are hereby repealed, and this act take effect and be in force from and after its passage."

Acts 1907, No. 324, § 11: approved May 14, 1907. Effective date clause provided: "All laws and parts of laws in conflict with

this Act are hereby repealed, and this Act shall take effect and be in force from and after its passage, except as herein provided."

Acts 1911, No. 434, §§ 8, 9: Apr. 1, 1911 (approved June 1, 1911). Emergency clause provided: "Section 8. That this Act be and the same is hereby declared to be a law necessary for the immediate preservation of the public peace, health and safety of the community affected.

"Section 9. That all laws and parts of laws in conflict herewith be and the same are hereby repealed and this Act shall take effect and be in force from and after April 1, 1911."

Acts 1915, No. 286, § 3: Apr. 1, 1915. Emergency clause provided: "That this Act be and the same is hereby declared to be a law necessary for the immediate preservation of the public peace, health and safety of the community affected, this Act shall take effect and be in force from and after April 1, 1915."

Acts 1917, No. 440, § 6: Apr. 1, 1917. Emergency clause provided: "This Act shall be and the same is hereby declared to be a law necessary for the immediate preservation of the public peace, health and safety, of the community affected, this

Act shall take effect and be in force from and after April 1, 1917.”

Acts 1923, No. 682, § 4: Mar. 26, 1923. Emergency clause provided: “This act being necessary for the immediate preservation of the public peace, health, and safety, shall take effect and be in force from and after its passage and approval.”

Acts 1981, No. 446, § 16: July 1, 1981. Emergency clause provided: “It is hereby found and determined by the Seventy-Third General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1981 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1981 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in

full force and effect from and after July 1, 1981.”

Acts 1989 (1st Ex. Sess.), No. 263, § 16: July 1, 1989. Emergency clause provided: “It is hereby found and determined by the Seventy-Seventh General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1989 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1989 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989.”

Cross References. Maintenance, transportation, and security for the Arkansas School for the Blind, § 6-43-321.

6-43-201. Board of trustees — Eligibility.

The superintendent, general business manager, and teachers of the Arkansas School for the Blind shall not be eligible for the office of trustee for the school.

History. Acts 1868, No. 50, § 7, p. 154; § 12859; A.S.A. 1947, § 80-2209; Acts C. & M. Dig., § 9456; Pope’s Dig., 1993, No. 294, § 16.

6-43-202. Records of board’s proceedings.

The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf shall keep a full and correct account of their proceedings in books to be provided for such purpose.

History. Acts 1868, No. 50, § 20, p. 154; C. & M. Dig., § 9473; Pope’s Dig., § 12876; A.S.A. 1947, § 80-2202.

6-43-203. Rules.

The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf shall make all rules necessary for the government of the Arkansas School for the Blind not otherwise provided

by law, and it shall incorporate the rules in the next report it makes after the promulgation of the rules to the General Assembly.

History. Acts 1868, No. 50, § 7, p. 154; C. & M. Dig., § 9455; Pope's Dig., § 12858; A.S.A. 1947, § 80-2208; Acts 2019, No. 315, § 330.

Amendments. The 2019 amendment substituted "Rules" for "Regulations" in the section heading, and "rules" for "regulations" throughout the section.

6-43-204. General control of property and institutional affairs.

The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf is invested with the general control and direction of the property and affairs of the school, with power to direct such purchases as, under the advice of the superintendent, may be deemed necessary for the comfort, health, and educational advancement of the blind.

History. Acts 1868, No. 50, § 9, p. 154; C. & M. Dig., § 9465; Pope's Dig., § 12868; A.S.A. 1947, § 80-2207.

6-43-205. Real and personal property.

(a) The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf may take and hold in trust for the use of the school any lands conveyed or devised, and any money or other personal property given or bequeathed, to be applied to the benefit of the Arkansas School for the Blind.

(b)(1) All property that has been or may be acquired by appropriation from the state, or in any other manner, for the use and benefit of the school, shall be held and deemed to be the property of the state for such use and purposes.

(2) All real estate purchased shall be deeded to the State of Arkansas, and, after recording the deed conveying the real estate in the proper recorder's office, the deed shall be filed in the office of the Secretary of State.

History. Acts 1868, No. 50, §§ 5, 6, p. 154; C. & M. Dig., §§ 9453, 9454; Pope's Dig., §§ 12856, 12857; A.S.A. 1947, §§ 80-2205, 80-2206.

6-43-206. Materials and supplies.

No trustee shall be allowed to furnish material for building purposes; nor shall they be, either directly or indirectly, personally interested in the purchase of any article of merchandise or other supplies for the use of such institution.

History. Acts 1868, No. 50, § 7, p. 154; C. & M. Dig., § 9456; Pope's Dig., § 12859; A.S.A. 1947, § 80-2209.

6-43-207. Approval of building expenditures.

No expenditures for building purposes shall be made for the benefit of the Arkansas School for the Blind unless the expenditure shall be recommended by the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf.

History. Acts 1868, No. 50, § 10, p. 154; C. & M. Dig., § 9466; Pope's Dig., § 12869; A.S.A. 1947, § 80-2216.

6-43-208. Superintendent.

(a) The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf shall have the power to elect a Superintendent of the Arkansas School for the Blind, who shall receive an annual compensation to be fixed by the board of trustees. This amount shall be reported to the General Assembly.

(b) The superintendent shall be permitted to accept and use free transportation on any railroad in this state without incurring the penalty incurred in § 23-4-803 [repealed].

History. Acts 1868, No. 50, § 7, p. 154; § 9455; Pope's Dig., § 12858; A.S.A. 1947, 1917, No. 440, § 4, p. 1991; C. & M. Dig., § 80-2208.

6-43-209. General business manager.

(a) The general business manager, before entering upon the duties of his or her office, shall give bond to the state in penalty and with surety, to be approved by the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf, conditioned for the faithful performance of his or her official duties. The bond is to be filed in the office of the Auditor of State.

(b) The general business manager shall discharge his or her various duties under the direction of the Superintendent of the Arkansas School for the Blind, who shall examine all statements prepared by the general business manager, whether for past or contemplated expenditures, and the board of trustees shall receive no statement of expenditures from the general business manager unless the approval of the superintendent is endorsed thereon.

History. Acts 1868, No. 50, §§ 12, 14, p. 154; C. & M. Dig., §§ 9468, 9469; Pope's Dig., §§ 12871, 12872; A.S.A. 1947, §§ 80-2218, 80-2219; Acts 1993, No. 294, § 16.

A.C.R.C. Notes. The operation of subsection (a) of this section was suspended by adoption of a self-insured fidelity bond

program for public officers, officials and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. The subsection may again become effective upon cessation of coverage under that program. See § 21-2-703.

6-43-210. Performance of duties by employees.

(a) The teachers, officers, and employees shall perform such other duties as the Superintendent of the Arkansas School for the Blind may direct, and when their services are not needed, they shall be discharged.

(b) However, if the teachers, officers, and employees are unjustly discharged, they shall be entitled to a fair and impartial hearing before the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf.

History. Acts 1907, No. 324, § 3, p. 785; C. & M. Dig., § 9461; Pope's Dig., § 12864; A.S.A. 1947, § 80-2212.

CASE NOTES**Discharge of Employees.**

The decision by the board to eliminate positions at the Arkansas School for the Blind did not amount to a discharge of individual employees for cause and, therefore, the employees discharged as a result

of the elimination of their positions were not entitled to hearings under the statute. *Stephens v. Ark. Sch. for Blind*, 341 Ark. 939, 20 S.W.3d 397 (2000).

Cited: *Lucas v. Futrall*, 84 Ark. 540, 106 S.W. 667 (1907).

6-43-211. Qualifications of teachers.

No teacher shall be employed in the Arkansas School for the Blind unless the teacher holds a current teacher's license issued by the State Board of Education.

History. Acts 1909, No. 282, § 7, p. 864; C. & M. Dig., § 9459; Pope's Dig., § 12862; A.S.A. 1947, § 80-2211; Acts 1993, No. 294, § 16.

6-43-212. Employment of operatives to make repairs and cultivate grounds.

The Superintendent of the Arkansas School for the Blind may employ such operatives as are necessary for the proper management of the school, the repair of buildings, and cultivation of adjacent grounds belonging thereto, and the superintendent shall report the same to the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf at its next meeting.

History. Acts 1868, No. 50, § 10, p. 154; C. & M. Dig., § 9466; Pope's Dig., § 12869; A.S.A. 1947, § 80-2216.

6-43-213. Salaries.

(a)(1) The salary of any person connected with the Arkansas School for the Blind shall not be increased during the period for which he or she has been elected or employed.

(2) When any increase of salary is granted by the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the

Deaf by this subsection, the increase shall take effect and be in force at the beginning of the next school term after the increase is granted.

(b) Teachers for the sensory impaired shall be eligible for an additional step increase after being certified in teaching the vision impaired, Deaf, deaf, or Hard of Hearing by the Department of Education.

(c) The Arkansas School for the Blind is hereby authorized to pay employees hired in the position of teacher for the sensory impaired for the yearly school term the maximum annual salary rate established for each position.

History. Acts 1911, No. 434, § 4; C. & M. Dig., § 9458; Pope's Dig., § 12861; Acts 1981, No. 446, §§ 10, 12; A.S.A. 1947, §§ 80-2210 — 80-2210.2; Acts 1989 (1st Ex. Sess.), No. 263, § 10; 2021, No. 84, § 4.

Amendments. The 2021 amendment, in (b), inserted "impaired" following "vision" and substituted "Deaf, deaf, or Hard of Hearing" for "or hearing impaired".

6-43-214. Admissions.

(a) All blind persons of suitable character and capacity between three (3) and twenty-one (21) years of age, residing in the state shall be entitled to the benefits of the Arkansas School for the Blind free of charge.

(b) Pupils from outside the state may be admitted to the privileges of the institution upon the payment of such sums as the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf may consider sufficient to defray expenses.

(c) If, in the opinion of the board of trustees, any blind person over twenty-one (21) years of age may be benefited by being received into the institution for a limited time to learn a trade or receive instruction, they may, by unanimous vote, and with approval of the Superintendent of the Arkansas School for the Blind, admit such person.

History. Acts 1868, No. 50, §§ 22, 24, p. 154; C. & M. Dig., §§ 9476, 9477; Pope's Dig., §§ 12879, 12880; A.S.A. 1947, §§ 80-2407, 80-2408; Acts 1993, No. 294, § 16.

6-43-215. Expulsions.

The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf may expel from the Arkansas School for the Blind any pupil whose longer continuance in the school would be injurious to the school.

History. Acts 1868, No. 50, § 24, p. 154; C. & M. Dig., § 9477; Pope's Dig., § 12880; A.S.A. 1947, § 80-2408.

6-43-216. Use of buildings during vacation period.

(a) No person, teacher, party, servant, or employee shall be boarded, lodged, or in any manner whatever provided for during the vacation of the Arkansas School for the Blind, neither shall any party or person at

any time be lodged, boarded, or permitted to remain at the school at the expense of the state not specifically designated and provided for in this subchapter.

(b) However, this section shall not apply to those employees and pupils who have no homes and are required to remain at the school during vacation.

History. Acts 1893, No. 159, § 8, p. 273; C. & M. Dig., § 9479; Pope's Dig., § 12882; A.S.A. 1947, § 80-2222.

6-43-217. Sale of articles made by students.

The funds arising from the sale of articles made at the Arkansas School for the Blind by student labor shall be used as a contingency fund by the Superintendent of the Arkansas School for the Blind, under the direction of the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf, for the purpose of paying for postage, freight, expressage, telegraph and telephone tolls, emergencies, medicines, and such other purposes as the board of trustees may direct, and the superintendent shall submit an itemized statement of receipts and expenditures from this fund to the board of trustees at its monthly meetings.

History. Acts 1915, No. 286, § 2; C. & M. Dig., § 9480; Pope's Dig., § 12883; A.S.A. 1947, § 80-2223.

6-43-218. Financial aid to graduates attending postsecondary educational institutions.

(a)(1) Any graduate of the Arkansas School for the Blind who is a resident of this state and who is a regularly enrolled student in any university, college, conservatory of music, or technical institution may, under the direction of the Superintendent of the Arkansas School for the Blind and subject to the approval of the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf, receive aid for the purpose of defraying his or her necessary expenses, including a reader, while in attendance at such university, college, conservatory of music, or technical institution.

(2) However, not more than seven hundred fifty dollars (\$750) shall be so expended on account of any one (1) such person during any fiscal year.

(b) No person shall become a beneficiary under the provisions of this section until it shall appear to the satisfaction of the superintendent, after investigation, that the person has no sufficient separate estate to provide for his or her education and that the parents of the person, if living, are unable to provide for such higher education.

(c) No person shall receive the benefits of this section for more than four (4) years.

History. Acts 1923, No. 682, §§ 1, 2; Pope's Dig., §§ 12895, 12896; A.S.A. 1947, §§ 80-2428, 80-2429.

6-43-219. Sacred Scriptures and copy of United States Constitution presented to blind pupils.

The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf and the Superintendent of the Arkansas School for the Blind are authorized to present to each pupil who shall have finished the course in the Arkansas School for the Blind and who shall be honorably discharged from the school, having learned to read by touch, a copy of the Sacred Scriptures and a copy of the United States Constitution in braille.

History. Acts 1868, No. 50, § 15, p. 154; C. & M. Dig., § 9471; Pope's Dig., § 12874; A.S.A. 1947, § 80-2430.

6-43-220. Records of purchasing agent.

(a)(1) The purchasing agent shall keep a full and complete record of all contracts made and entered into for all articles bought for the Arkansas School for the Blind and all bids accepted and rejected.

(2) The record shall show all contracts in full, price paid for all items, quantity of each item, and from whom purchased.

(b) The purchasing agent shall keep a copy and record of all building contracts of whatsoever nature and kind.

History. Acts 1911, No. 434, § 7; C. & M. Dig., § 9464; Pope's Dig., § 12867; A.S.A. 1947, § 80-2214.

6-43-221. Report of school officers.

The officers of the Arkansas School for the Blind shall make reports to the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf as it may from time to time require.

History. Acts 1868, No. 50, § 20, p. 154; C. & M. Dig., § 9474; Pope's Dig., § 12877; A.S.A. 1947, § 80-2221.

6-43-222. Record of allowances — Statement of expenditures.

(a) The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf shall keep a book in which they shall record all allowances and make an entry of the proceedings had thereon.

(b)(1) The general business manager shall report to the board of trustees a detailed statement, under oath, of all the expenditures he or she may have made for the preceding three (3) months, to whom made,

and for what purpose, to the truth of which he or she shall take and subscribe an oath.

(2) The report shall be accompanied by proper vouchers.

History. Acts 1868, No. 50, § 14, p. § 12873; A.S.A. 1947, § 80-2220; Acts 154; C. & M. Dig., § 9470; Pope's Dig., 1993, No. 294, § 16.

6-43-223. Reports — Publication.

(a) The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf and the Superintendent of the Arkansas School for the Blind shall make a full and complete report, to be submitted to the Governor and the General Assembly, not later than January 15 of each year the General Assembly is in regular session.

(b) These reports shall deal with improvements made during the previous two (2) fiscal years, together with the suggestions and recommendations covering the Arkansas School for the Blind for the next two-year period.

(c) The report of the board of trustees shall cover the preceding school year.

(d)(1) The board of trustees and the superintendent shall each make detailed reports biennially to the General Assembly of their proceedings, the condition of the school, the number of pupils, and other facts connected with the institution, including the exact receipts and expenditures of the board of trustees.

(2) The superintendent shall report to the board of trustees before each regular session of the General Assembly a detailed statement of the number of pupils admitted and discharged, their place of residence and supposed cause of blindness, the amount of money expended and for what purpose, and the probable sum necessary to defray the current expenses of the institution until the next regular session of the General Assembly, which report shall be embodied in that of the board of trustees.

(e)(1) The reports shall be made and printed together not later than January 15 of each year the General Assembly is in regular session.

(2) There shall be, of each biennial report of the board of trustees to the General Assembly, one thousand five hundred (1,500) copies printed, one thousand (1,000) for the use of the General Assembly and five hundred (500) for the school.

History. Acts 1868, No. 50, §§ 11, 20, Dig., §§ 12867, 12870, 12878, 12881; 27, p. 154; 1911, No. 434, § 7; C. & M. A.S.A. 1947, §§ 80-2203, 80-2204, 80-Dig., §§ 9464, 9467, 9475, 9478; Pope's 2214, 80-2217; Acts 2009, No. 962, § 4.

SUBCHAPTER 3 — ARKANSAS SCHOOL FOR THE DEAF

SECTION.

6-43-301. Establishment.

6-43-302. Real and personal property.

SECTION.

6-43-303. Rent, construction, or repair of facilities.

SECTION.

- 6-43-304. Action for trespass or other wrongs brought by state.
- 6-43-305. Teachers generally.
- 6-43-306. Duties of teachers and employees.
- 6-43-307. Limitations on salary increases.
- 6-43-308. Custodian of funds — Payment of bills, warrants, etc.
- 6-43-309. Accounts and records — Reports.
- 6-43-310. Records of secretary and purchasing agent.
- 6-43-311. Biennial reports.

SECTION.

- 6-43-312 — 6-43-314. [Repealed.]
- 6-43-315. List of applications in numerical order.
- 6-43-316. Length of time students may remain.
- 6-43-317. Boarding and lodging.
- 6-43-318. Aid to deaf students at college.
- 6-43-319. Cruel or severe punishment forbidden.
- 6-43-320. Shift differential.
- 6-43-321. Maintenance, transportation, and security for Arkansas School for the Blind.

Publisher's Notes. Acts 1923, No. 462, § 1 changed the name of the Arkansas Deaf-Mute Institute to the Arkansas School for the Deaf.

Preambles. Acts 1891, No. 155 contained a preamble which read: "Whereas, The Government of the United States maintains, at Washington, a college for the deaf, and many of the deaf youth of this State male and female, are desirous of enjoying the advantages of that college, but because the term of seven years that they are allowed to attend the Arkansas Deaf-Mute Institute, is not sufficient for them to prepare themselves to pass the examination for entrance to the college, and, Whereas, Other young men and women find that their term of seven years has expired before they are sufficiently skilled in their trades to obtain employment in them at fair wages;

"Therefore ... "

Effective Dates. Acts 1868, No. 36, § 27: effective on passage.

Acts 1869 (Adj. Sess.), No. 66, § 2: effective on passage.

Acts 1871, No. 23, § 2: effective on passage.

Acts 1891, No. 155, § 3: approved Apr. 14, 1891. Effective date clause provided: "That this act shall take effect and be in force from and after its passage, and all laws and parts of laws inconsistent with it are hereby repealed."

Acts 1893, No. 31, § 2: approved Feb. 21, 1893. Effective date clause provided: "That this act take effect and be in force from and after its passage."

Acts 1905, No. 276, § 2: approved May 6, 1905. Effective date clause provided:

"That all laws and parts of laws in conflict with this Act are hereby repealed, and this Act be in force from and after its passage."

Acts 1907, No. 316, § 9: April 1, 1907 (approved May 14, 1907). Effective date clause provided: "That all laws and parts of laws in conflict with this Act are hereby repealed, and this Act take effect and be in force from and after April 1, 1907; except as herein provided."

Acts 1911, No. 442, § 7: Apr. 15, 1911 (approved June 1, 1911). Emergency clause provided: "That all laws and parts of laws in conflict herewith are hereby repealed, and this Act, being necessary for the immediate preservation of the public peace, health and safety of the community affected, shall take effect and be in full force from and after April 15, 1911."

Acts 1981, No. 356, § 13: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the Seventy-Third General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1981 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1981 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

Acts 1989 (1st Ex. Sess.), No. 248, § 18: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1989 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1989 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Acts 1997, No. 1086, § 21: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1997 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the

effective date of this Act beyond July 1, 1997 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-43-301. Establishment.

An institute of learning is established in the State of Arkansas for the education of Deaf, deaf, or Hard of Hearing persons of the state, by and under the name and title of the Arkansas School for the Deaf.

History. Acts 1868, No. 36, § 1, p. 115; 1869 (Adj. Sess.), No. 66, § 1, p. 132; C. & M. Dig., § 9342; Pope's Dig., § 12807; A.S.A. 1947, § 80-2301; Acts 2021, No. 84, § 5.

Amendments. The 2021 amendment substituted "Deaf, deaf, or Hard of Hearing" for "hearing impaired".

6-43-302. Real and personal property.

(a) The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf may take and hold in trust for the state to the use of the Arkansas School for the Deaf any lands conveyed or devised and any money or other personal property given or bequeathed, to be applied to the use and benefit of the school.

(b) All property pertaining to the Arkansas School for the Deaf shall be exempt from taxation.

History. Acts 1868, No. 36, §§ 4, 22, p. §§ 12809, 12823; A.S.A. 1947, §§ 80-115; 1869 (Adj. Sess.), No. 66, § 1, p. 132; 2303, 80-2304.
C. & M. Dig., §§ 9344, 9358; Pope's Dig.,

6-43-303. Rent, construction, or repair of facilities.

The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf shall have power to make all contracts for the rent or construction and repair of any building and appurtenances belonging to or used by the Arkansas School for the Deaf.

History. Acts 1868, No. 36, § 5, p. 115;
C. & M. Dig., § 9345; Pope's Dig.,
§ 12810; A.S.A. 1947, § 80-2308.

6-43-304. Action for trespass or other wrongs brought by state.

For all damages for trespass and other wrongs upon the buildings or any other property, personal or real, belonging to the Arkansas School for the Deaf, actions may be maintained in the name of the state, and all damages received in such actions shall be appropriated to the repair of the injured property.

History. Acts 1868, No. 36, § 12, p. 115;
C. & M. Dig., § 9350; Pope's Dig.,
§ 12815; A.S.A. 1947, § 80-2305.

6-43-305. Teachers generally.

(a) The Arkansas School for the Deaf is hereby authorized to pay employees hired in the position of teacher for the sensory impaired or senior audiologist for the yearly school term the maximum annual salary rate established for each position.

(b) Teachers for the sensory impaired shall be eligible for an additional step increase after being certified in teaching the vision impaired, Deaf, deaf, or Hard of Hearing by the Division of Elementary and Secondary Education.

History. Acts 1911, No. 442, § 4; C. & M. Dig., § 9365; Pope's Dig., § 12830; Acts 1981, No. 356, §§ 7, 9; A.S.A. 1947, §§ 80-2314, 80-2315.1, 80-2315.2; Acts 1989 (1st Ex. Sess.), No. 248, § 12; 1993, No. 294, § 16; 1997, No. 1086, § 15; 2019, No. 910, § 1809; 2021, No. 84, § 6.

Amendments. The 2019 amendment

substituted "Division of Elementary and Secondary Education" for "Department of Education" in (b).

The 2021 amendment, in (b), inserted "impaired" following "vision" and substituted "Deaf, deaf, or Hard of Hearing" for "or hearing impaired".

6-43-306. Duties of teachers and employees.

(a) The teachers, officers, and employees shall perform such other duties as the Superintendent of the Arkansas School for the Deaf may direct, and, when their services are not needed, they shall be discharged.

(b) However, if the teachers, officers, and employees are unjustly discharged, they shall be entitled to a fair and impartial hearing before the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf and to be represented by counsel if they desire.

History. Acts 1911, No. 442, § 3; C. & M. Dig., § 9363; Pope's Dig., § 12828; A.S.A. 1947, § 80-2316.

6-43-307. Limitations on salary increases.

The salary of any person connected with the Arkansas School for the Deaf shall be as determined by law.

History. Acts 1907, No. 316, § 4; p. § 12831; A.S.A. 1947, § 80-2315; Acts 751; C. & M. Dig., § 9366; Pope's Dig., 1993, No. 294, § 16.

6-43-308. Custodian of funds — Payment of bills, warrants, etc.

(a) The Treasurer of State, in consultation with the Secretary of the Department of Education, shall have the custody of all moneys, notes, securities, and other obligations belonging to the Arkansas School for the Deaf and shall be responsible for them under his or her bond and oath as the Treasurer of State.

(b) The Treasurer of State, in consultation with the secretary, shall pay all the expenses of the school out of the funds appropriated for the use of the school, upon warrants drawn by the Auditor of State in favor of the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf, who shall issue his or her warrants upon orders signed by the Chair of the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf and at least two (2) members of the board of trustees, except as herein otherwise provided.

History. Acts 1868, No. 36, § 6; C. & M. Dig., § 9346; Pope's Dig., § 12811; A.S.A. 1947, § 80-2306; Acts 2019, No. 910, § 1810.

Amendments. The 2019 amendment

inserted "in consultation with the Secretary of the Department of Education" in (a); and inserted "in consultation with the secretary" in (b).

6-43-309. Accounts and records — Reports.

(a) The accounts and records of the Arkansas School for the Deaf shall be so kept by the Board of Trustees of the Arkansas School for the

Blind and the Arkansas School for the Deaf and the superintendent as to show the:

- (1) Kind, quality, cost, and of whom bought, of each article purchased for use thereof;
- (2) Condition of the school;
- (3) Specific amount of the receipts and expenditures;
- (4) Number, name, and date of admission of each pupil;
- (5) Age, cause of deafness, and length of time under instruction of each pupil, of beneficiaries of each pupil, and all other pupils received into the school; and
- (6) Number and salaries of officers and employees.

(b) This information shall be embodied in a report made to the Governor on or before the convening of the General Assembly at each regular session, and shall be presented to that body by the Governor with his or her message.

History. Acts 1868, No. 36, § 7, p. 115;
C. & M. Dig., § 9347; Pope's Dig.,
§ 12812; A.S.A. 1947, § 80-2307.

6-43-310. Records of secretary and purchasing agent.

(a)(1) The secretary and purchasing agent shall keep a full and complete record of all contracts made and entered into for the purchase of all articles bought for the Arkansas School for the Deaf and all bids accepted and rejected.

(2) The record shall show all contracts in full, price paid per item, for all items and quantity of each item, and from whom purchased.

(b) The secretary and purchasing agent shall keep a copy and a record copy of all building contracts of whatsoever nature or kind.

History. Acts 1911, No. 442, § 6, p. 452;
C. & M. Dig., § 9347; Pope's Dig.,
§ 12833; A.S.A. 1947, § 80-2311.

6-43-311. Biennial reports.

(a) The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf and the Superintendent of the Arkansas School for the Deaf shall make a full and complete report to be submitted to the Governor, which shall be printed together and presented to the General Assembly not later than January 16 of each year the General Assembly is in regular session.

(b) The report of the board of trustees shall cover the two (2) preceding calendar years, and the report of the superintendent shall cover the two (2) preceding school years.

(c) These reports shall deal with the improvements made during the biennial period covered by them, together with the suggestions and recommendations concerning the Arkansas School for the Deaf for the next biennium.

History. Acts 1911, No. 442, § 6; C. & M. Dig., § 9368; Pope's Dig., § 12833; A.S.A. 1947, § 80-2311; Acts 2009, No. 962, § 5.

6-43-312 — 6-43-314. [Repealed.]

Publisher's Notes. These sections, concerning the keeping of records and reports of hearing impaired persons of the county by the sheriff, hearing impaired orphans, and admissions, were repealed by Acts 1993, No. 294, § 16. The sections were derived from the following sources:

6-43-312. Acts 1868, No. 36, § 21, p. 115; C. & M. Dig., § 9356; Pope's Dig., § 12821; A.S.A. 1947, § 80-2409.

6-43-313. Acts 1868, No. 36, § 21, p. 115; C. & M. Dig., § 9357; Pope's Dig., § 12822; A.S.A. 1947, § 80-2410.

6-43-314. Acts 1868, No. 36, § 8, p. 115; 1895, No. 151, § 1, p. 236; 1909, No. 56, § 1, p. 141; C. & M. Dig., § 9348; Pope's Dig., § 12813; A.S.A. 1947, § 80-2412.

6-43-315. List of applications in numerical order.

The Superintendent of the Arkansas School for the Deaf is required to keep a list of all applications for admission in their numerical order.

History. Acts 1871, No. 23, § 1, p. 38; C. & M. Dig., § 9361; Pope's Dig., § 12826; A.S.A. 1947, § 80-2413.

6-43-316. Length of time students may remain.

(a) Any Deaf, deaf, or Hard of Hearing person who may be admitted into the school and supported as a beneficiary at the expense of the state shall be permitted to remain in the school for thirteen (13) years unless, in the judgment of the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf, he or she shall be sooner discharged.

(b)(1) The board is empowered to extend the term of such pupils as may be recommended by the superintendent from time to time beyond the original period of thirteen (13) years, either for further instruction with a view to entering college, or for perfecting themselves in their trades.

(2) However, no more than twenty (20) pupils shall be so recommended in one (1) year, nor any one (1) for more than three (3) years' extension.

History. Acts 1868, No. 36, § 16, p. 115; 1891, No. 155, § 1, p. 265; 1893, No. 31, § 1, p. 49; 1905, No. 276, § 1, p. 694; C. & M. Dig., §§ 9353, 9375; Pope's Dig., §§ 12818, 12840; A.S.A. 1947, §§ 80-2425, 80-2426; Acts 2021, No. 84, § 7.

Amendments. The 2021 amendment substituted "Deaf, deaf, or Hard of Hearing" for "hearing-impaired" in (a).

6-43-317. Boarding and lodging.

(a)(1) It shall be the duty of the Superintendent of the Arkansas School for the Deaf to furnish, or cause to be furnished, suitable and

proper boarding and lodging, as well as suitable instruction, for all Deaf, deaf, or Hard of Hearing persons received as beneficiaries.

(2) He or she shall receive into the school other Deaf, deaf, or Hard of Hearing persons according to such rules as the Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf may prescribe.

(b)(1) The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf may require the superintendent or other school official to reside at the institution.

(2) The Board of Trustees of the Arkansas School for the Blind and the Arkansas School for the Deaf may provide other benefits to the superintendent out of the operation funds of the respective school.

(c) No person shall lodge or board in the school who is not a pupil thereof, except its officers and their families.

History. Acts 1868, No. 36, §§ 5, 17, p. 115; C. & M. Dig., §§ 9345, 9354; Pope’s Dig., §§ 12810, 12819; A.S.A. 1947, §§ 80-2308, 80-2411; Acts 2001, No. 1143, § 1; 2019, No. 315, § 331; 2021, No. 84, § 8.

Amendments. The 2019 amendment

substituted “rules” for “regulations” in (a)(2).

The 2021 amendment substituted “Deaf, deaf, or Hard of Hearing” for “hearing-impaired” twice in (a).

6-43-318. Aid to deaf students at college.

When the county judge of any county has certified that a deaf pupil is indigent, the provisions of § 6-43-109 shall be extended to the pupil while the pupil is a student of a college.

History. Acts 1891, No. 155, § 2, p. 265; C. & M. Dig., § 9376; Pope’s Dig., § 12841; A.S.A. 1947, § 80-2427.

6-43-319. Cruel or severe punishment forbidden.

There shall be no cruel or severe punishment inflicted upon the pupils of the Arkansas School for the Deaf.

History. Acts 1868, No. 36, § 23, p. 115; C. & M. Dig., § 9359; Pope’s Dig., § 12824; A.S.A. 1947, § 80-2318.

Publisher’s Notes. Acts 1997, No.

1086, § 9, inadvertently assigned this section’s code number to another section that has been recodified as § 6-43-321.

6-43-320. Shift differential.

For the Arkansas School for the Deaf, shift work must begin not earlier than 2:00 p.m. and end no later than 8:00 a.m. the following day.

History. Acts 1997, No. 1086, § 13.

6-43-321. Maintenance, transportation, and security for Arkansas School for the Blind.

(a) The Arkansas School for the Deaf shall be responsible for providing maintenance, transportation, and security for the Arkansas School for the Blind.

(b) The Arkansas School for the Deaf is authorized to spend general revenue funds to provide for these services.

History. Acts 1997, No. 1086, § 9.

CHAPTER 44 ADULT LITERACY

SUBCHAPTER.

1. [RESERVED.]
2. STATE COMMISSION ON ADULT LITERACY. [REPEALED.]

SUBCHAPTER 1

[Reserved.]

SUBCHAPTER 2 — STATE COMMISSION ON ADULT LITERACY

[Repealed.]

SECTION.

6-44-201 — 6-44-203. [Repealed.]

6-44-201 — 6-44-203. [Repealed.]

Publisher's Notes. This subchapter, concerning the State Commission on Adult Literacy, was repealed by Acts 1999, No. 1323, § 26. The subchapter was derived from the following sources:

6-44-201. Acts 1989, No. 812, § 1; 1991,

No. 390, § 1; 1991, No. 399, § 1; 1997, No. 250, § 22; 1997, No. 1354, § 7.

6-44-202. Acts 1989, No. 812, § 3; 1991, No. 390, § 2; 1991, No. 399, § 2.

6-44-203. Acts 1989, No. 812, § 2.

CHAPTER 45

ARKANSAS BETTER CHANCE PROGRAM ACT

SECTION.

- 6-45-101. Title.
- 6-45-102. Legislative intent.
- 6-45-103. Definitions.
- 6-45-104. Construction.
- 6-45-105. Establishment of Arkansas Better Chance Program.
- 6-45-106. Application process — Allocation of funding.
- 6-45-107. Publication of funding avail-

SECTION.

- ability and program criteria.
- 6-45-108. Criteria for determining need.
- 6-45-109. Certification by Division of Child Care and Early Childhood Education.
- 6-45-110. Assessment.
- 6-45-111. Early childhood program assessments.

Cross References. Funding for open-enrollment public charter schools, § 6-23-501.

Effective Dates. Identical Acts 1991, Nos. 212, 216, § 6: July 1, 1991. Emergency clause provided: “It is hereby found and determined by the General Assembly that a need exists to provide state financial assistance to appropriate early childhood programs in order to identify and address the critical needs of three to five year old educationally deprived children. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation and protection of the public, peace, health, and safety shall be in full force and effect from July 1, 1991.”

Acts 1995, No. 850, § 12: Mar. 31, 1995. Emergency clause provided: “It is hereby found and determined by the General Assembly that the State of Arkansas is in serious need to provide for the health, welfare and education of the State’s children by encouraging child care facilities to offer an ‘appropriate early childhood program’ and this Act is designed to meet that need by providing tax incentives to encourage construction of these facilities. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1999, No. 1222, § 21: Apr. 8, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly, that it is essential to the effective and efficient administration of the Child Care Licensing program that the responsibility for reviewing ap-

peals be placed in the Child Care Appeal Review Panel under the Department of Human Services, as soon as possible and that this act is designed to accomplish this purpose and should be given effect immediately. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval of the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-45-101. Title.

The title of this chapter shall be the "Arkansas Better Chance Program Act".

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1.

6-45-102. Legislative intent.

It is the intent of the General Assembly to expand the availability of developmentally appropriate early childhood programs, including, but not limited to, the Head Start program, the Home Instruction for Parents of Preschool Youngsters (HIPPY), therapeutic child development programs, and Parents As Teachers. Children have the capacity to learn at very early ages, and participating in high-quality early care and education programs provides preschool children with the skills, enrichment, and learning opportunities that increase their chances of future success in school. Children from all backgrounds who receive high-quality early care and education score higher on tests of both cognitive and social skills in their early school years. Low-income children who receive high-quality early care and education score significantly higher on tests of reading and math from their primary years through middle adolescence. These high-quality early care and education services can be both classroom, center-based, or home-based programs. Therefore, the General Assembly finds that the state should provide assistance to educationally deprived young children by funding successful and innovative programs that are designed to increase the learning of these children and provide for their optimal development.

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 2003, No. 1332, § 1.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2003 Arkansas General Assembly, Education Law, Better Chance Program, 26 U. Ark. Little Rock L. Rev. 390.

6-45-103. Definitions.

As used in this chapter:

(1) "Appropriate early childhood program" means a developmentally appropriate program for young children, birth through five (5) years of age, approved by the Division of Elementary and Secondary Education as complying with the regulatory guidelines of the early childhood state accreditation by the Department of Human Services and Arkansas Better Chance Program Core Quality Approval Standards of the division to be issued by the division pursuant to this chapter;

(2) "Arkansas Better Chance for School Success Program" means a developmentally appropriate early care and education program for children three (3) and four (4) years of age created under § 6-45-105(a)(1)(B);

(3) "Arkansas Early Childhood Commission" or "commission" means a twenty-five-member advisory body appointed by the Governor to perform certain duties and responsibilities relating to the development, expansion, and coordination of early childhood programs, including, but not limited to, serving as the advisory body to the division on early childhood program issues; and

(4) “Arkansas HIPPY Advisory Board” means a citizen board appointed through the Home Instruction for Parents of Preschool Youngsters (HIPPY) U.S.A. regional technical assistance and training center to develop public awareness, to promote program expansion, to encourage local development of the Home Instruction for Parents of Preschool Youngsters (HIPPY) U.S.A., and to provide consultation and guidance to the center.

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 1997, No. 1132, § 36; 1999, No. 1222, § 3; 2003, No. 1105, § 1; 2003, No. 1332, § 2; 2009, No. 28, § 1; 2013, No. 403, § 1; 2019, No. 910, §§ 1811-1813.

Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” three times in (1) and in (3); and repealed former (5).

6-45-104. Construction.

(a)(1) Except as required under subdivision (a)(2) of this section, this chapter shall not require any school district to participate.

(2) A local school is required to work with the Division of Elementary and Secondary Education and its local community to establish, promote, and assist in the development of a program under the Arkansas Better Chance for School Success Program to serve all children in the school as provided in § 6-45-108, if the school is located in a school district classified as in need of Level 5 — Intensive support.

(b) Furthermore, nothing in this chapter shall require parents or legal guardians to enroll their children under five (5) years of age in any program established pursuant to this chapter.

History. Acts 1991, No. 212, § 2; 1991, No. 216, § 2; 1997, No. 1132, § 37; 2003, No. 1332, § 3; 2003 (2nd Ex. Sess.), No. 49, § 1; 2019, No. 757, § 62; 2019, No. 910, § 1814.

Amendments. The 2019 amendment by No. 757 deleted (a)(2)(A) and rewrote the former introductory language of (a)(2) and (a)(2)(B) as (a)(2).

The 2019 amendment by No. 910 substituted “Division of Elementary and Secondary Education” for “Department of Education” in (a)(2); and substituted “division” for “department” in (a)(2)(A) [repealed] and (a)(2)(B) [rewritten].

6-45-105. Establishment of Arkansas Better Chance Program.

(a)(1)(A) The Division of Elementary and Secondary Education shall establish the Arkansas Better Chance Program to assist in the establishment and funding of the appropriate early childhood programs for children from birth through five (5) years of age.

(B) Within the Arkansas Better Chance Program there is established the Arkansas Better Chance for School Success Program for providing appropriate early care and education programs for children three (3) years of age and four (4) years of age as identified under § 6-45-108(a).

(2)(A) The Division of Elementary and Secondary Education shall award grants or contracts to appropriate early childhood programs

selected by the Division of Elementary and Secondary Education in accordance with specified programmatic standards.

(B)(i) These standards will be developed by the Division of Elementary and Secondary Education, with the advice and assistance of the Arkansas Early Childhood Commission.

(ii) Standards for funding the Home Instruction for Parents of Preschool Youngsters (HIPPY) U.S.A. will be developed in conjunction with the Arkansas HIPPY Advisory Board.

(C) The Home Instruction for Parents of Preschool Youngsters (HIPPY) U.S.A. regional technical assistance and training center shall be defined and funded as an integral part of the Home Instruction for Parents of Preschool Youngsters (HIPPY) U.S.A. to provide necessary training, technical assistance, and program support to program sites in Arkansas.

(b) The programmatic standards and other rules necessary for the implementation of the Arkansas Better Chance Program shall be adopted by the State Board of Education in accordance with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(c)(1) The Division of Elementary and Secondary Education may expend a maximum of two percent (2%) of available funds to administer the Arkansas Better Chance Program and to monitor Arkansas Better Chance Program grantees to ensure compliance with programmatic standards.

(2) The Division of Elementary and Secondary Education may contract with the Division of Child Care and Early Childhood Education to administer the Arkansas Better Chance Program.

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 1993, No. 923, § 1; 1997, No. 1132, § 38; 2003, No. 1332, § 4; 2009, No. 376, § 52; 2019, No. 315, § 332; 2019, No. 910, § 1815.

A.C.R.C. Notes. Acts 1997, No. 1132, § 41, provided: "That part of the General Education Division of the Department of Education pertaining to operations of the Early Childhood Commission, including only the two percent (2%) administrative component of the Better Chance Program, is hereby transferred by a Type 2 transfer as provided in § 25-2-105 to the Department of Human Services, Division of Child Care and Early Childhood Educa-

tion."

Amendments. The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (b).

The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" in (a)(1)(A); substituted "The Division of Elementary and Secondary Education" for "Beginning with the 1991-1992 school year, the Department" in (a)(2)(A); and substituted "Division of Elementary and Second Education" for "department" in (a)(2)(A), (a)(2)(B)(i), (c)(1), and (c)(2).

6-45-106. Application process — Allocation of funding.

(a)(1)(A)(i) Any early childhood program accredited and quality-approved by the Department of Human Services according to standards approved by the Division of Elementary and Secondary Edu-

cation may apply for funding, regardless of the sponsorship of the program.

(ii) Local school districts may apply for funding to operate early childhood programs, not including public school kindergarten, but an appropriate early childhood program need not be affiliated with a school district in order to receive funding.

(B) All applications submitted by sectarian or sectarian-affiliated programs must first be reviewed to assure that any approval of funding will not result in a violation of the First Amendment to the United States Constitution.

(2)(A) A local-to-state match will be required in the ratio of forty to sixty (40:60), except that the Division of Child Care and Early Childhood Education may waive the requirement of the local-to-state match if:

(i) The school is in a district that has been classified by the State Board of Education as being in need of Level 5 — Intensive support; and

(ii) The Division of Child Care and Early Childhood Education determines that the school is unable to provide the local-to-state match requirement after the Division of Child Care and Early Childhood Education has assisted the school in identifying potential funding sources to provide local-to-state match requirements.

(B) The local match may consist of cash or appropriate in-kind services.

(b) In order to be considered, an application must contain all information required by the Division of Elementary and Secondary Education's rules.

(c)(1) In allocating funding for the Arkansas Better Chance for School Success Program, priority consideration shall be given to a school located in a school district that is classified as in need of Level 5 — Intensive support.

(2) The goal of the state is to make available an Arkansas Better Chance for School Success Program for an additional one-fifth ($\frac{1}{5}$) of the qualifying students each year over a period of five (5) years, at which time programs shall be available in all schools statewide.

(3) The priority considerations for funding under the Arkansas Better Chance for School Success Program shall not affect the funding of the Arkansas Better Chance Program and shall not create any priority for funding the Arkansas Better Chance for School Success Program over the Arkansas Better Chance Program.

(4) Any programs given priority consideration under this subsection shall continue to receive priority funding as necessary to continue an established program even though the criteria under subdivision (c)(1) of this section no longer exist for that school district.

History. Acts 1991, No. 212, § 1; 1991, No. 49, § 2; 2005, No. 1447, § 1; 2019, No. 216, § 1; 1997, No. 1132, § 39; 2001, 757, §§ 63, 64; 2019, No. 910, No. 1183, § 1; 2003, No. 1105, § 5[2]; §§ 1816-1819; 2021, No. 544, § 57.
2003, No. 1332, § 5; 2003 (2nd Ex. Sess.), **A.C.R.C. Notes.** Acts 2003, No. 1105,

§ 5, provided: "Any licensed early childhood program with early childhood accreditation by the Department of Human Services and meeting the Arkansas Better Chance Core Quality Approval Standards of the Department of Education may apply for funding regardless of the sponsorship of the program. Local school districts may apply for funding to operate early childhood programs, not including public school kindergarten, but an appropriate early childhood program need not be affiliated with a school district in order to receive funding."

Amendments. The 2019 amendment

by No. 757, in (a)(2)(A)(i), substituted "classified" for "designated", "State Board of Education" for "Department of Education", and "in need of Level 5 – Intensive support" for "in academic distress"; deleted (c)(1)(A); and rewrote the former introductory language of (c)(1) and (c)(1)(B) as (c)(1).

The 2019 amendment by No. 910 substituted "Division of Elementary and Secondary Education" for "Department of Education" throughout the section.

The 2021 amendment substituted "rules" for "regulatory guidelines" in (b).

6-45-107. Publication of funding availability and program criteria.

The Division of Elementary and Secondary Education shall annually provide notification to school districts and to other appropriate providers of the availability of funds under the Arkansas Better Chance Program and shall include in such notification the programmatic standards and criteria for determination of eligibility for funding under the program.

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 2019, No. 910, § 1820.

Amendments. The 2019 amendment

substituted "Division of Elementary and Secondary Education" for "Department of Education".

6-45-108. Criteria for determining need.

(a)(1) All children three (3) years of age and four (4) years of age who are members of a family with a gross family income not exceeding two hundred percent (200%) of the federal poverty guidelines are eligible to attend an Arkansas Better Chance for School Success Program if there is an Arkansas Better Chance for School Success Program available in the school district where the child resides and if there is available space for the child to attend the Arkansas Better Chance for School Success Program.

(2) The Division of Elementary and Secondary Education and the Division of Child Care and Early Childhood Education may develop a fee schedule and establish eligibility based on family income for children who are not eligible under subdivision (a)(1) of this section, but priority enrollment shall be allowed to children eligible under subdivision (a)(1) of this section.

(b) The Division of Elementary and Secondary Education and the Division of Child Care and Early Childhood Education shall review various criteria for identifying and targeting the areas of the state with the greatest need for early childhood programs.

(c) The State Board of Education, with the advice and assistance of the Division of Child Care and Early Childhood Education, shall adopt the appropriate criteria for identifying Arkansas children with the

greatest need to participate in Arkansas Better Chance for School Success Program-funded early childhood programs.

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 2003, No. 1332, § 6; 2003 (2nd Ex. Sess.), No. 49, § 3; 2019, No. 910, § 1821.

Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of

Education” in (a)(2); substituted “Division of Elementary and Secondary Education” for “department” in (b); and substituted “Division of Child Care and Early Childhood Education” for “division” in (b) and (c).

6-45-109. Certification by Division of Child Care and Early Childhood Education.

(a) The Division of Child Care and Early Childhood Education shall certify childcare facilities which have an appropriate early childhood program, as defined in § 6-45-103. Certification numbers shall be issued to those childcare facilities that meet the applicable qualifications.

(b) Upon certification of the childcare facilities, the division shall provide a listing of all certified facilities and their certification numbers to the Secretary of the Department of Finance and Administration for the purpose of the income tax credit or refund provided for in §§ 26-51-502 and 26-51-507.

History. Acts 1993, No. 1268, § 2; 1995, No. 850, § 1; 1997, No. 1132, § 40; 2001, No. 413, § 1; 2019, No. 910, § 1822.

Amendments. The 2019 amendment, in (b), substituted “Secretary of the Department of Finance and Administration”

for “Director of the Department of Finance and Administration”.

Cross References. Tax refunds for construction of employer operated childcare facilities, §§ 26-52-516 and 26-53-132.

6-45-110. Assessment.

(a)(1) The Division of Child Care and Early Childhood Education shall be responsible for assessment of students enrolled in the Arkansas Better Chance for School Success Program.

(2)(A) Assessment shall begin upon enrollment in the Arkansas Better Chance for School Success Program and continue until each child completes the fourth grade, so long as the child is enrolled in a public school in the state.

(B) The Division of Child Care and Early Childhood Education and the Division of Elementary and Secondary Education shall work cooperatively to ensure that the assessments are conducted as required by this section.

(b)(1) Children in the Arkansas Better Chance for School Success Program shall be assessed annually to provide an indication of each child’s progress towards school readiness.

(2) This annual assessment shall be directly aligned with the Arkansas Early Childhood Education Framework/Early Learning Guidelines and shall serve to promote curriculum development and instructional

methods that assist in achievement of the intended outcome of readiness for kindergarten.

(3)(A) The assessment shall address a child's strengths, progress, and needs and shall serve as a central part of an effective early childhood program.

(B) The assessment will be used in making sound decisions about teaching and learning and to identify areas of concern that may require focused intervention.

(c)(1) A comprehensive research study shall be implemented to evaluate the Arkansas Better Chance for School Success Program to ensure that the Arkansas Better Chance for School Success Program goals and intended child outcomes are being achieved.

(2) The study shall be designed to use sound research-based evidence to determine whether the programs meet the expected standards of quality and whether they are achieving the intended child outcomes.

(3) This research shall include children entering the Arkansas Better Chance for School Success Program at ages three (3) and four (4) years and follow the children through completion of the fourth grade statewide student assessments.

(d) Research results will be provided annually to the Governor, the Senate Committee on Education, and the House Committee on Education.

History. Acts 2003 (2nd Ex. Sess.), No. 49, § 4; 2019, No. 910, § 1823; 2021, No. 544, § 58.

Amendments. The 2019 amendment, in (a)(2)(B), substituted "Division of Child Care and Early Childhood Education" for

"division" and substituted "Division of Elementary and Secondary Education" for "Department of Education".

The 2021 amendment substituted "statewide student assessments" for "benchmark exams" in (c)(3).

6-45-111. Early childhood program assessments.

(a) The Division of Child Care and Early Childhood Education shall assess each early childhood program in this state that receives state funding under this subchapter based on nationally recognized standards and assessments that may include without limitation the following components:

- (1) Curriculum and learning environment;
- (2) Training and education of staff;
- (3) Adult-to-child ratios;
- (4) Student assessments;
- (5) Health and safety conditions;
- (6) Family involvement; and
- (7) Site visits.

(b) The certification under § 6-45-109 of a childcare facility that has an early childhood program is subject to the review of the assessment by the division.

(c) The division annually shall provide a summary of the results of assessments conducted under this section concerning the quality of the

early childhood programs assessed to the Governor, the Senate Committee on Education, and the House Committee on Education.

History. Acts 2011, No. 1130, § 1.

CHAPTER 46

ARKANSAS HIGH TECHNOLOGY TRAINING CENTER

[Repealed.]

SECTION.
6-46-101 — 6-46-502. [Repealed.]

6-46-101 — 6-46-502. [Repealed.]

A.C.R.C. Notes. The repeal of this chapter by Acts 2019, No. 692, § 11, superseded the amendment of § 6-46-101 by Acts 2019, No. 910, § 1824. The amendment by Acts 2019, No. 910 substituted “Division of Workforce Services” for “Department of Career Education” in (c).

The repeal of this chapter by Acts 2019, No. 692, § 11, superseded the amendment of § 6-46-202 by Acts 2019, No. 910, § 1825. The amendment by Acts 2019, No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education.”

The repeal of this chapter by Acts 2019, No. 692, § 11, superseded the amendment of § 6-46-302 by Acts 2019, No. 315, § 333 and by Acts 2019, No. 910, § 1826. The amendment by Acts 2019, No. 315 deleted “and regulations” following “rules” in (a); and the amendment by Acts 2019, No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education” in (a); and substituted “division” for “department” in (b).

The repeal of this chapter by Acts 2019, No. 692, § 11, superseded the amendment of § 6-46-303 by Acts 2019, No. 910, § 1827. The amendment by Acts 2019, No. 910, in (a), substituted “Division of Career and Technical Education” for “Department of Career Education” and “department”, “State Board of Education” for “Career Education and Workforce Development Board”, and “Division of Career and Technical Education Fund Account” for “Department of Career Education Fund Account”; and substituted “Division of Career and Technical Education” for “department” in (b).

The repeal of this chapter by Acts 2019, No. 692, § 11, superseded the amendment of § 6-46-304 by Acts 2019, No. 910, § 1828. The amendment by Acts 2019, No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education.”

The repeal of this chapter by Acts 2019, No. 692, § 11, superseded the amendment of § 6-46-401 by Acts 2019, No. 910, § 1829. The amendment by Acts 2019, No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education” in (a) and (b).

The repeal of this chapter by Acts 2019, No. 692, § 11, superseded the amendment of § 6-46-402 by Acts 2019, No. 910, § 1830. The amendment by Acts 2019, No. 910 added “and the Department of Education” in (a); substituted “Division of Career and Technical Education” for “Department of Career Education” in (b); and substituted “division” for “department” in (d).

The repeal of this chapter by Acts 2019, No. 692, § 11, superseded the amendment of § 6-46-501 by Acts 2019, No. 910, § 1831. The amendment by Acts 2019, No. 910 substituted “Division of Career and Technical Education, the Division of Higher Education” for “Department of Career Education, the Department of Higher Education.”

The repeal of this chapter by Acts 2019, No. 692, § 11, superseded the amendment of § 6-46-502 by Acts 2019, No. 910, § 1832. The amendment by Acts 2019, No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education.”

Publisher's Notes. This chapter, concerning the Arkansas High Technology Training Center, was repealed by Acts 2019, No. 692, § 11, effective July 24, 2019. The chapter was derived from the following sources:

6-46-101. Acts 1993, No. 839, § 1; 1997, No. 540, § 1; 1999, No. 1323, § 27; 2019, No. 910, § 1824.

6-46-102. Acts 1993, No. 839, § 1.

6-46-201. Acts 1993, No. 839, § 2.

6-46-202. Acts 1993, No. 839, § 2; 2019, No. 910, § 1825.

6-46-203. Acts 1993, No. 839, § 2.

6-46-302. Acts 1993, No. 839, §§ 4, 8; 2019, No. 315, § 333; 2019, No. 910, § 1826.

6-46-303. Acts 1993, No. 839, §§ 4, 7; 2009, No. 376, § 53; 2019, No. 910, § 1827.

6-46-304. Acts 1993, No. 839, § 2; 2019, No. 910, § 1828.

6-46-401. Acts 1993, No. 839, § 5; 2019, No. 910, § 1829.

6-46-402. Acts 1993, No. 839, § 5; 2019, No. 910, § 1830.

6-46-501. Acts 1993, No. 839, § 6; 1997, No. 540, § 3; 2015 (1st Ex. Sess.), No. 7, § 70; 2015 (1st Ex. Sess.), No. 8, § 70; 2019, No. 910, § 1831.

6-46-502. Acts 1993, No. 839, § 6; 1995, No. 1296, § 32; 2019, No. 910, § 1832.

Former § 6-46-301, concerning the advisory board of directors, was repealed by Acts 2001, No. 783, § 2. The section was derived from Acts 1993, No. 839, § 3; 1997, No. 540, § 2. Acts 783, § 1 also provided that the advisory board of directors is "hereby abolished."

CHAPTER 47

DISTANCE LEARNING

SUBCHAPTER.

1. DISTANCE LEARNING DEMONSTRATION PROJECT. [REPEALED.]
2. DISTANCE LEARNING COORDINATION.
3. DISTANCE LEARNING IMPLEMENTATION.
4. ARKANSAS DISTANCE LEARNING DEVELOPMENT PROJECT ACT OF 2003.
5. DISTANCE LEARNING GRANTS.

SUBCHAPTER 1 — DISTANCE LEARNING DEMONSTRATION PROJECT

[Repealed.]

SECTION.

6-47-101 — 6-47-105. [Repealed.]

6-47-101 — 6-47-105. [Repealed.]

Publisher's Notes. This subchapter, concerning the Distance Learning Demonstration Project, was repealed by Acts 2003, No. 1192, § 1. The subchapter was derived from the following sources:

6-47-101. Acts 1995, No. 1240, § 1.

6-47-102. Acts 1995, No. 1240, § 2.

6-47-103. Acts 1995, No. 1240, § 3.

6-47-104. Acts 1995, No. 1240, §§ 4, 5.

6-47-105. Acts 1995, No. 1240, § 4.

For current law, see § 6-47-401 et seq.

SUBCHAPTER 2 — DISTANCE LEARNING COORDINATION

SECTION.

6-47-201. Administration in elementary schools.

6-47-202. Administration in two-year colleges.

6-47-203. Division of Elementary and

Secondary Education and Division of Higher Education — Cooperation, report, and implementation.

Effective Dates. Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the

Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-47-201. Administration in elementary schools.

(a) The Department of Education shall oversee and coordinate the implementation of distance learning in elementary and secondary public schools in the state.

(b) The department shall promulgate rules establishing appropriate adult supervision.

(c)(1) The elementary or secondary school may import courses from outside the state if the out-of-state course provider is approved by the department before the school offers the courses through distance learning.

(2) A course offered through an approved out-of-state course provider under this subsection shall follow department course frameworks.

(d) The courses offered through distance learning shall include, but not be limited to:

(1) College preparatory courses, including, but not limited to, calculus, physics, Arkansas history, foreign languages, and computer science; and

(2) Technological courses, including, but not limited to, advanced math and science courses, advanced computer skills courses, and advanced courses in the arts.

(e) The department shall work with the Arkansas School for Mathematics, Sciences, and the Arts, the Educational Television Division, the education service cooperatives, and other state agencies involved in distance learning in implementing distance learning.

History. Acts 1999, No. 1083, § 1; 2009, No. 1469, § 25; 2019, No. 315, § 334.

A.C.R.C. Notes. As enacted, subsection (a) of this section also provided: “Distance learning shall be available to one hundred (100) elementary and secondary public

schools in the state by August 1, 2000. Distance learning shall be available to all school districts in the state by August 1, 2004.”

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (b).

6-47-202. Administration in two-year colleges.

(a) The Division of Higher Education shall oversee and coordinate the implementation of distance learning in two-year colleges, four-year institutions of higher education, and universities in the state.

(b) The Division of Career and Technical Education shall cooperate with the Division of Higher Education in implementing the provisions of this section.

History. Acts 1999, No. 1083, § 2; 2019, No. 910, § 1839[a].

Amendments. The 2019 amendment substituted “Division of Higher Education” for “Department of Higher Educa-

tion” in (a) and (b); and substituted “Division of Career and Technical Education” for “Department of Career Education” in (b).

6-47-203. Division of Elementary and Secondary Education and Division of Higher Education — Cooperation, report, and implementation.

(a) The Division of Elementary and Secondary Education and the Division of Higher Education shall work together to implement distance learning throughout the state.

(b) The Division of Elementary and Secondary Education and the Division of Higher Education shall present a report to the House Committee on Education and the Senate Committee on Education by December 31, 1999, reporting the status and progress of distance learning in Arkansas.

(c) The Division of Elementary and Secondary Education and the Division of Higher Education shall not be required to implement the provisions of this subchapter if funds are not made available.

History. Acts 1999, No. 1083, § 3; 2019, No. 910, § 1833.

Amendments. The 2019 amendment substituted “Division of Elementary and

Secondary Education” for “Department of Education” and “Division of Higher Education” for “Department of Higher Education” throughout the section.

SUBCHAPTER 3 — DISTANCE LEARNING IMPLEMENTATION

SECTION.

6-47-301. Intent.

6-47-302. Implementation in elementary and secondary schools — Courses offered.

6-47-303. Coordination at institutions of higher education.

SECTION.

6-47-304. Division of Career and Technical Education to cooperate with Division of Elementary and Secondary Education and Division of Higher Education.

SECTION.

6-47-305. [Repealed.]

Effective Dates. Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the state’s constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the

Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-47-301. Intent.

It is the intent of the General Assembly that the planning and implementation of distance learning should create opportunities for innovation in education, transform institutional behavior, and prepare students for participation in the information age economy.

History. Acts 1999, No. 1298, § 1.

6-47-302. Implementation in elementary and secondary schools — Courses offered.

(a) The Division of Elementary and Secondary Education shall plan for the statewide implementation of distance learning in elementary and secondary public schools in the state.

(b)(1) The elementary or secondary school may utilize courses from outside the state if the out-of-state course provider is approved by the Division of Elementary and Secondary Education or the Division of Career and Technical Education before the school offers the courses through distance learning.

(2) A course offered through an approved out-of-state course provider under this subsection shall follow Division of Elementary and Secondary Education course frameworks.

(c) The courses offered through distance learning may include college preparatory courses, advanced mathematics and science courses, and technological courses.

(d) The Division of Elementary and Secondary Education shall work with the Arkansas School for Mathematics, Sciences, and the Arts, the Educational Television Division, the education service cooperatives, the Arkansas State Library, and other state agencies involved in distance learning.

History. Acts 1999, No. 1298, § 2; 2009, No. 1469, § 26; 2019, No. 910, § 1834.

Amendments. The 2019 amendment substituted “Division of Elementary and

Secondary Education” for “Department of Education” throughout the section; and substituted “Division of Career and Technical Education” for “Department of Career Education” in (b)(1).

6-47-303. Coordination at institutions of higher education.

The Division of Higher Education shall coordinate the implementation of distance learning at the state’s public institutions of higher education.

History. Acts 1999, No. 1298, § 3; 2019, No. 910, § 1835.

Amendments. The 2019 amendment

substituted “Department of Higher Education” for “Division of Higher Education”.

6-47-304. Division of Career and Technical Education to cooperate with Division of Elementary and Secondary Education and Division of Higher Education.

The Division of Career and Technical Education shall cooperate with the Division of Elementary and Secondary Education and the Division of Higher Education to implement distance learning throughout the state.

History. Acts 1999, No. 1298, § 4; 2019, No. 910, § 1836.

Amendments. The 2019 amendment substituted “Division of Career and Technical Education” for “Department of Career Education”, “Division of Elementary

and Secondary Education” for “Department of Education”, and “Division of Higher Education” for “Department of Higher Education” in the section heading and in the section.

6-47-305. [Repealed.]

Publisher’s Notes. This section, concerning the Distance Learning Coordinating Council, was repealed by Acts 2017, No. 540, § 4. The section was derived from Acts 1999, No. 1298, § 5; 2005, No.

1425, § 1; 2007, No. 751, § 3; 2013, No. 1073, § 35; 2015, No. 1100, § 4; 2015, No. 1159, § 1; 2015 (1st Ex. Sess.), No. 7, § 71; 2015 (1st Ex. Sess.), No. 8, § 71.

SUBCHAPTER 4 — ARKANSAS DISTANCE LEARNING DEVELOPMENT PROJECT
ACT OF 2003

SECTION.
6-47-401. Title.
6-47-402. Purpose.
6-47-403. Definitions.
6-47-404. Establishment and implemen-
tation.

SECTION.
6-47-405. Rules.
6-47-406. Public school district and char-
ter school distance learn-
ing program.

Effective Dates. Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the state’s constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the

Governor and the veto is overridden, the date the last house overrides the veto.”
Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-47-401. Title.

This subchapter shall be known and may be cited as the “Arkansas Distance Learning Development Project Act of 2003”.

History. Acts 2003, No. 1192, § 2.

6-47-402. Purpose.

- (a) The purpose of this subchapter is to provide for the establishment, organization, and administration of a distance learning program designed to improve course offerings available to students throughout the state.
- (b) The program will demonstrate the efficiency of using distance learning to enhance elementary and secondary education and prepare

students for greater success in a postsecondary educational environment.

History. Acts 2003, No. 1192, § 2.

6-47-403. Definitions.

As used in this subchapter:

- (1) "Board" means the State Board of Education;
- (2) "Distance learning" means an interactive telecommunications system that utilizes information technology, audio, video, and similar technological elements, is compatible with other distance learning networks, and is used for the purpose of enhancing instructional opportunities in Arkansas public schools;
- (3) "Infrastructure" means an interlinked system of wires, cables, fiber optics, or other wireline or wireless communications media;
- (4) "Program" means the Arkansas Distance Learning Development Program; and
- (5) "Public telecommunications" means the facilities used in providing telecommunication services to the public, including, but not limited to, facilities owned and operated by public utilities.

History. Acts 2003, No. 1192, § 2;
2019, No. 910, § 1837.

Amendments. The 2019 amendment
repealed former (2) and (3).

6-47-404. Establishment and implementation.

(a) There is established the Arkansas Distance Learning Development Program, which shall be conducted by the Division of Elementary and Secondary Education and administered through the Commissioner of Elementary and Secondary Education.

(b) The program shall have four (4) focus areas:

- (1) To help alleviate the increasing shortage of available qualified teachers;
- (2) To provide additional course-scheduling opportunities for students currently forced to choose between courses that are scheduled infrequently or concurrently;
- (3) To provide an opportunity for students to access an enriched curriculum and additional courses beyond those mandated by the Standards for Accreditation of Arkansas Public Schools and School Districts; and
- (4) To develop and make available online professional development and instructional resources for all teachers and administrators.

(c)(1) The funding necessary to carry out the provisions of this subchapter may be derived from donations, grants, or legislative appropriation.

(2) The commissioner may solicit and receive donations and grants for the purpose of administering the program.

(3)(A) All donations, grants, and appropriations received shall be accounted for by the division.

(B) Fund balances may be carried over from one (1) year to the next to continue the program.

(d) The commissioner shall review the implementation of this program annually and make recommendations to the State Board of Education regarding the number and amount of awards to ensure that the purpose of the program is achieved.

(e) The commissioner may enter into contracts or provide grants to local education agencies, education service cooperatives, or other entities for personnel, facilities, and services necessary to implement this program.

(f) Students taking courses through this program shall be considered entitled to any public education credits and grades assigned through this program, and those credits and grades shall be accepted by all public schools in the State of Arkansas.

(g) Courses offered or taught through the program may be offered or taught to public school students, private school students, and home-schooled students in the State of Arkansas.

(h) A home-schooled student or a private school student enrolled in a distance learning course shall not be entitled to any rights, privileges, courses, activities, or services available to a public school student or open-enrollment public charter school student other than receiving appropriate credit for a completed distance learning course.

History. Acts 2003, No. 1192, § 2; 2005, No. 2121, § 18; 2005, No. 2325, § 1; 2007, No. 1573, § 40; 2019, No. 910, §§ 1838, 1839[b].

Amendments. The 2019 amendment, in (a), substituted “Division of Elementary and Secondary Education” for “Department of Education” and “Commissioner of Elementary and Secondary Education” for “Commissioner of Education”; and substituted “division” for “department” in (c)(3)(A).

6-47-405. Rules.

The State Board of Education shall promulgate rules necessary for the implementation of this subchapter.

History. Acts 2003, No. 1192, § 2; 2019, No. 315, § 335. deleted “and regulations” following “rules” in the section heading and in the section.

Amendments. The 2019 amendment

6-47-406. Public school district and charter school distance learning program.

(a) Except as provided in subsection (b) of this section, a public school district or open-enrollment public charter school may offer and teach distance learning courses to a student enrolled in a private school or a home school if:

(1) The student resides in the public school district where the public school or open-enrollment public charter school is located;

(2) The student agrees to physically attend the public school or open-enrollment public charter school for the purposes of taking state

tests and assessments required for the particular course or courses taken by the student; and

(3) The public school or open-enrollment public charter school teaches or offers a distance learning course that has been approved by or otherwise complies with Division of Elementary and Secondary Education rules and standards governing distance learning courses.

(b) The State Board of Education shall adopt rules to allow the Commissioner of Elementary and Secondary Education to waive the requirements under subdivisions (a)(1) and (2) of this section on an individual basis for a student who is unable to attend due to conditions that prevent the child from physically attending a public school or an open-enrollment public charter school.

(c)(1) A public school district or open-enrollment public charter school that teaches or offers a distance learning course to one (1) or more home-schooled or private school students who meet the conditions of subsection (a) or subsection (b) of this section shall be entitled to an amount equal to one-sixth ($\frac{1}{6}$) of the state foundation funding amount for each course taught to a private school student or home-schooled student.

(2) However, under no circumstances shall a public school district or open-enrollment public charter school be entitled to more than the equivalent of state foundation funding for one (1) average daily membership per student regardless of the number of distance learning courses received by a particular home-schooled or private school student.

(d) A home-schooled student or a private school student enrolled in a distance learning course shall not be entitled to any rights, privileges, courses, activities, or services available to a public school student or open-enrollment public charter school student other than receiving appropriate credit for a completed distance learning course.

(e) This section shall not be construed to entitle a home-schooled student or private school student to participate in, enroll in, or attend any other courses, activities, or services provided by a public school district or an open-enrollment public charter school.

(f)(1) Before a public school district or open-enrollment public charter school offers or teaches to public school students, home-schooled students, or private school students distance learning courses that are not part of the curriculum required by the Standards for Accreditation of Arkansas Public Schools and School Districts established by the state board, the open-enrollment public school district or public charter school first shall obtain approval of the distance learning courses by the division.

(2) A course offered under this subsection shall follow division course frameworks.

(g) No public school district or open-enrollment public charter school shall establish or provide a virtual school or distance learning course except as allowed by this section.

(h) This section shall not be construed to require a home-schooled student or private school student to take any test or assessment not

specifically required for completion of the course for which the student is enrolled.

History. Acts 2005, No. 2325, § 2; 2009, No. 1469, § 27; 2017, No. 867, § 3; 2019, No. 910, §§ 1840-1842.

Amendments. The 2017 amendment deleted former (a)(2)(A); and deleted the (a)(2)(B) designation.

The 2019 amendment substituted “Division of Elementary and Secondary Edu-

cation” for “Department of Education” in (a)(3); substituted “Commissioner of Elementary and Secondary Education” for “Commissioner of Education” in (b); and substituted “division” for “department” in (f)(1) and (f)(2).

SUBCHAPTER 5 — DISTANCE LEARNING GRANTS

SECTION.

6-47-501. Purpose.

6-47-502. Distance learning grants.

SECTION.

6-47-503. Distance learning consortiums.

6-47-504. Effect on teachers.

Effective Dates. Acts 2007, No. 751, § 38: July 1, 2007. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act dissolves and transfers the duties of the Executive Chief Information Officer, Chief Information Officer, and Office of Information Technology; and that dissolving the offices at the beginning of the state’s fiscal year will result in a more efficient transfer of responsibilities and funds. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this

act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-47-501. Purpose.

(a) It is the purpose of this subchapter to make available distance learning in every school district in the state.

(b) The primary purpose of providing distance learning technologies is to assist school districts in receiving advanced high school courses, advanced placement courses, enriched course content, or other academic courses not otherwise available in the school district.

History. Acts 2003 (2nd Ex. Sess.), No. 34, § 1.

6-47-502. Distance learning grants.

(a)(1) The Division of Elementary and Secondary Education shall develop grant standards and provide grants to education service cooperatives for acquiring equipment and receiving telecommunications services necessary for each school district to have distance learning availability.

(2) The grants shall be used to assist school districts that do not have distance learning capabilities and to assist school districts in upgrading existing distance learning capabilities.

(3) The grants shall also be used by the education service cooperatives to provide technical assistance to the school districts in implementing and maintaining distance learning as an educational tool.

(b)(1) The Division of Elementary and Secondary Education shall:

(A) Establish, by rule, standards for eligible equipment and telecommunications services; and

(B) Oversee the efficient operation and use of the system pursuant to law.

(2) Each school district shall have adequate connectivity to provide quality of service for distance learning.

(3) The distance learning technical protocol or protocols shall be in alignment with technical standards set by the Director of the Division of Information Systems.

(c) Education service cooperatives and school districts shall coordinate with the Division of Elementary and Secondary Education to seek to obtain the benefits of the Federal Communications Commission's E-Rate Program.

History. Acts 2003 (2nd Ex. Sess.), No. 34, § 1; 2007, No. 617, §§ 32, 33; 2007, No. 751, § 4; 2019, No. 910, § 1843.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of

Education" in (a)(1) and the introductory language of (b)(1); substituted "Division of Information Systems" for "Department of Information Systems" in (b)(3); and substituted "Division of Elementary and Secondary Education" for "department" in (c).

6-47-503. Distance learning consortiums.

School districts shall form collaborative efforts with other schools or education service cooperatives or both other schools and education service cooperatives that share common educational needs in order to ensure that the state maximizes distance learning services by distributing shared course content.

History. Acts 2003 (2nd Ex. Sess.), No. 34, § 1; 2007, No. 617, § 34.

6-47-504. Effect on teachers.

A teacher who is under contract in a school district in the respective field of study that is being offered by distance learning pursuant to this

subchapter shall not be terminated by the school district because of the availability of distance learning courses.

History. Acts 2003 (2nd Ex. Sess.), No. 34, § 1.

CHAPTER 48

ALTERNATIVE LEARNING ENVIRONMENTS

SECTION.
6-48-101. Definitions.
6-48-102. Alternative learning environment required — Reporting.
6-48-103. Assessment and intervention services.

SECTION.
6-48-104. Division of Elementary and Secondary Education responsibilities.

Effective Dates. Acts 2011, No. 1118, § 5: July 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the constitutional obligation of the state to ensure that the state’s public school children receive an equal opportunity for an adequate education; that to ensure that opportunity, it is essential that the state’s public schools and education service cooperatives operate effective alternative learning environments; that the immediate effectiveness of this bill is necessary for the implementation of the funding changes and for the public schools and education service cooperatives to operate effective alternative learning environments under this bill throughout the state by the 2011-2012 school year; and that any delay in the effective date of this act could work irreparable harm to the quality of education available to students who are educated in alternative learning environments in this state. Therefore, an emergency is declared to exist and this act being immediately

necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011.”
Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-48-101. Definitions.

As used in this chapter:
(1)(A)(i) “Alternative learning environment” means an alternate class or program within a public school or school district that affords all students an environment that seeks to eliminate barriers to learning for any student whose academic and social progress is

negatively affected by the student's personal characteristics or situation.

(ii) The Division of Elementary and Secondary Education shall by rule more fully define the student's personal characteristics and situations applicable under this chapter.

(B) An alternative learning environment is not a punitive environment but one that is conducive to learning.

(C) An alternative learning environment is not a separate school for the purposes of this title even if the division assigns the alternative learning environment a separate local education agency number; and

(2) "Intervention services" means activities within or outside a school that will eliminate traditional barriers to learning.

History. Acts 2011, No. 1118, § 4; 2015, No. 846, § 35; 2019, No. 910, § 1844.

Amendments. The 2019 amendment substituted "Division of Elementary and

Secondary Education" for "Department of Education" in (1)(A)(ii); and substituted "Division of Elementary and Secondary Education" for "department" in (1)(C).

6-48-102. Alternative learning environment required — Reporting.

(a)(1) A school district shall provide one (1) or more alternative learning environments for all students who meet the minimum criteria established by the Division of Elementary and Secondary Education.

(2) A school district complies with this section if the school district provides an alternative learning environment by one (1) or more of the following methods:

(A) Establishes and operates an alternative learning environment;

(B) Cooperates with one (1) or more other school districts to establish and operate an alternative learning environment;

(C) Uses an alternative learning environment operated by an education service cooperative established under The Education Service Cooperative Act of 1985, § 6-13-1001 et seq.; or

(D) Partners with a state-supported institution of higher education and technical institutes to provide concurrent courses or technical education options for academic learning to students in grades eight through twelve (8-12).

(b) Annually, a school district shall submit to the division:

(1) Information on race and gender of the students educated in the alternative learning environment;

(2) Any other information regarding students educated in alternative learning environments that the division requires by rule; and

(3) An assurance statement that the school district is in compliance with this chapter.

History. Acts 2011, No. 1118, § 4; 2015, No. 994, § 2; 2019, No. 910, §§ 1845, 1846.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of

Education” in (a)(1); and substituted “division” for “department” in the introductory language of (b) and in (b)(2).

6-48-103. Assessment and intervention services.

(a) An alternative learning environment shall:

(1) Assess a student either before or upon entry into the alternative learning environment; and

(2) Provide intervention services designed to address a student’s specific educational needs.

(b)(1) A student assigned to an alternative learning environment for behavioral reasons shall receive intervention services designed to address the student’s behavioral needs.

(2) The intervention services shall not be punitive in nature but shall be designed for long-term improvement of the student’s ability to control his or her behavior.

History. Acts 2011, No. 1118, § 4.

6-48-104. Division of Elementary and Secondary Education responsibilities.

(a) The Division of Elementary and Secondary Education shall promulgate rules to implement this chapter, including without limitation rules that establish:

(1)(A) The criteria for distributing state funding for alternative learning environment programs.

(B) The criteria shall identify the characteristics of students who may be counted for the purpose of funding an alternative learning environment program including without limitation that a student is educated in the alternative learning environment for a minimum of twenty (20) consecutive days.

(C) If a student is educated in the alternative learning environment for fewer than twenty (20) days, the division may provide funding to a school district based on the actual number of days the student is educated in the alternative learning environment if the student:

(i) Leaves the school district to transfer to another alternative learning environment; or

(ii) Is placed in a residential treatment program;

(2)(A) The criteria for teacher training for teachers in alternative learning environments, including without limitation:

(i) In-service training in classroom management; and

(ii) Training in additional areas related to the specific needs and characteristics of students who are educated in alternative learning environments.

(B) The division shall award professional development credit for the training under this subdivision (a)(2); and

(3) Measures of effectiveness for alternative learning environments that measure:

(A) For the students educated in the alternative learning environment the effect on the students':

- (i) School performance;
- (ii) Need for intervention; and
- (iii) School attendance and dropout rate; and

(B) Any other characteristic of alternative learning environments deemed necessary by the division.

(b)(1) As part of the division's accreditation review of a school district under § 6-15-202, the division shall evaluate each alternative learning environment to ensure that the alternative learning environment is:

(A) Established and operated in compliance with this chapter; and

(B) Effective under the measurements established by the division under this section.

(2) The division shall identify a school district's noncompliance with this chapter on the school district's annual report card.

(c) The division shall identify information concerning best practices for educating students in alternative learning environments and disseminate that information to teachers and administrators working in alternative learning environments.

(d) Annually by September 15, the division shall provide to the House Committee on Education and the Senate Committee on Education a report on:

(1) The information reported to it under § 6-48-102; and

(2) The effectiveness of alternative learning environments evaluated under this chapter.

History. Acts 2011, No. 1118, § 4; 2019, No. 910, § 1847.

Amendments. The 2019 amendment substituted "Division of Elementary and Secondary Education" for "Department of

Education" in the section heading and in the introductory language of (a); and substituted "division" for "department" throughout the section.

CHAPTER 49

[Reserved.]

SUBTITLE 4. VOCATIONAL AND TECHNICAL EDUCATION

CHAPTER 50

GENERAL PROVISIONS

SUBCHAPTER.

1. GENERAL PROVISIONS.

2. TECHNICAL CAREERS STUDENT LOAN FORGIVENESS PROGRAM. [REPEALED.]

3. ADVISORY COUNCIL FOR VOCATIONAL-TECHNICAL EDUCATION. [REPEALED.]

4. VOCATIONAL-TECHNICAL HIGH SCHOOL DISTRICTS. [REPEALED.]

SUBCHAPTER

- 5. ARKANSAS YOUTH APPRENTICESHIP/WORK-BASED LEARNING ACT OF 1991.
- 6. ARKANSAS ADVISORY COUNCIL FOR VOCATIONAL-TECHNICAL EDUCATION. [REPEALED.]
- 7. ARKANSAS EXISTING WORKFORCE TRAINING ACT OF 1995.
- 8. WORKFORCE DEVELOPMENT CENTER AUTHORITY ACT.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 6-50-101. Contracts with private organizations.
- 6-50-102. Training workers in existing industries.
- 6-50-103. Participation in vocational student organizations.

SECTION.

- 6-50-104. Marketing and services provided outside of service areas.

Effective Dates. Acts 1985, No. 282, § 2: Mar. 7, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is an urgent need to provide training necessary to encourage industrial and economic development of the State through upgrade training of workers in existing industries. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect following passage and approval."

Acts 1985, No. 461, § 2: Mar. 21, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is an urgent need to provide training necessary to encourage industrial and economic development of the State through upgrade training of workers in existing industries. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health, and safety shall be in full force and effect following passage and approval."

Acts 1989 (1st Ex. Sess.), No. 127, § 47: July 1, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1989 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the de-

lay in the effective date of this Act beyond July 1, 1989 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989."

Acts 1991, No. 1244, § 43: Apr. 17, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the restructuring of the delivery system of adult education and vocational education in this state is necessary to provide higher quality educational programs which are accessible by all segments of the population in this state; that recent studies have shown that in the year 2000, workers must have a minimum of fourteen (14) years education to function in the work force; that the state is in desperate need of training, retraining and upgrading the work force; that this act will provide a means to establish more institutions working closely with business and industry to provide every citizen with an opportunity to participate in vocational-technical training or college transfer programs within a reasonable driving distance of their homes; that it is necessary for this act to become effective immediately so needed changes can be made prior to the date the institutions contained herein are transferred to the new system. Therefore, an emergency is hereby declared to exist and this act being necessary for the imme-

diate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded

sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-50-101. Contracts with private organizations.

The Director of the Division of Career and Technical Education is hereby authorized to enter into contracts with private organizations licensed by the State Board of Education in order to provide vocational-technical training to citizens of the State of Arkansas.

History. Acts 1989 (1st Ex. Sess.), No. 127, § 27; 1999, No. 1323, § 28; 2019, No. 910, § 1848.

A.C.R.C. Notes. Former § 6-50-101, concerning contracts with private organizations, is deemed to be superseded by this section. The former section was derived from Acts 1987, No. 1058, § 30. A similar provision which was also codified

as § 6-50-101, and was previously superseded, was derived from Acts 1985, No. 773, § 26.

Amendments. The 2019 amendment substituted “Director of the Division of Career and Technical Education” for “Director of the Department of Career Education” and “State Board of Education” for “State Board of Career Education”.

6-50-102. Training workers in existing industries.

(a) The role and function of the Arkansas Industry Training Program of the Arkansas Economic Development Council and the Arkansas Economic Development Commission is expanded to authorize the program to provide training of workers in existing industries as well as in new and expanding businesses and industries.

(b) Such training may be for:

(1) Upgrading skills and abilities of workers to operate modern, more sophisticated equipment;

(2) Providing workers with skills needed for initiating more modern processes and using more sophisticated materials; and

(3) Other situations which create a technical-upgrade training need of employees.

(c) The resources provided shall not be used to address worker training needs caused by turnover and normal attrition.

(d) The commission shall cooperate with the Arkansas Higher Education Coordinating Board in the operation of this program.

History. Acts 1985, No. 282, § 1; 1985, No. 461, § 1; 1991, No. 1244, § 31; 1997, No. 540, §§ 4, 5.

6-50-103. Participation in vocational student organizations.

(a)(1) The Division of Career and Technical Education may reimburse secondary vocational centers and other public schools in Arkansas for dues, membership fees, supplies, travel, lodging, and other expenses related to a student’s participation in vocational student organizations.

(2) The amount allowed pursuant to this section shall be thirty-five dollars (\$35.00) per student as documented by national and state membership records.

(3) The division may disburse funds after the final cut-off date for membership enrollments.

(b) The division shall promulgate rules necessary for the implementation of this section.

(c) The provisions of this section shall be contingent on the appropriation and funding necessary to allow the division to carry out the duties assigned to it in this section.

History. Acts 1999, No. 1159, § 1; substituted “Division of Career and Technical Education” for “Department of Career Education” in (a)(1).
2019, No. 910, § 1849.

Amendments. The 2019 amendment

6-50-104. Marketing and services provided outside of service areas.

This title of the Arkansas Code and corresponding rules promulgated under this title shall not limit the ability of a state-supported two-year institution of higher education to market, offer courses, or provide services to any individual who resides in this state, regardless of the service area, as defined in § 6-53-103, within which the individual resides.

History. Acts 2019, No. 944, § 1.

SUBCHAPTER 2 — TECHNICAL CAREERS STUDENT LOAN FORGIVENESS PROGRAM

[Repealed.]

SECTION.

6-50-201 — 6-50-208. [Repealed.]

6-50-201 — 6-50-208. [Repealed.]

A.C.R.C. Notes. The repeal of this subchapter by Acts 2019, No. 237, § 1, superseded the amendment of § 6-50-201 by Acts 2019, No. 910, § 1850. The amend-

ment by Acts 2019, No. 910 substituted “State Board of Education” for “State Board of Career Education” and “Division of Career and Technical Education” for

"Department of Career Education" in (a).

The repeal of this subchapter by Acts 2019, No. 237, § 1, superseded the amendment of § 6-50-203 by Acts 2019, No. 315, § 336, and Acts 2019, No. 910, § 1851. The amendment by Acts 2019, No. 315 deleted "and regulations" following "rules" in (1). The amendment by Acts 2019, No. 910 substituted "State Board of Education" for "State Board of Career Education" and "Division of Career and Technical Education" for "Department of Career Education" in the introductory language.

The repeal of this subchapter by Acts 2019, No. 237, § 1, superseded the amendment of § 6-50-204 by Acts 2019, No. 910, § 1852. The amendment by Acts 2019, No. 910 substituted "State Board of Education" for "Career Education and Workforce Development Board" and "Division of Higher Education" for "Department of Higher Education".

The repeal of this subchapter by Acts 2019, No. 237, § 1, superseded the amendment of § 6-50-205 by Acts 2019, No. 910, § 1853. The amendment by Acts 2019, No. 910 substituted "State Board of Education" for "State Board of Career Education," "Division of Higher Education" for "Department of Higher Education," and "Division of Workforce Services" for "Department of Workforce Services" in (a).

The repeal of this subchapter by Acts 2019, No. 237, § 1, superseded the amendment of § 6-50-206 by Acts 2019, No. 315, § 337. The amendment by Acts 2019, No. 315 deleted "and regulations" following "rules" in (a)(3).

The repeal of this subchapter by Acts 2019, No. 237, § 1, superseded the amendment of § 6-50-207 by Acts 2019, No. 315, §§ 338, 339, and Acts 2019, No. 910, § 1854. The amendment by Acts 2019, No. 315 deleted "and regulations" following "rules" in (b)(1) and (c). The amendment

by Acts 2019, No. 910 substituted "Division of Higher Education" for "Department of Higher Education" and "State Board of Education" for "State Board of Career Education" in (c).

Publisher's Notes. This subchapter, concerning the Technical Careers Student Loan Forgiveness Program, was repealed by Acts 2019, No. 237, § 1, effective July 24, 2019. The subchapter was derived from the following sources:

6-50-201. Acts 1999, No. 652, § 1; 2019, No. 910, § 1850.

6-50-202. Acts 1999, No. 652, § 2.

6-50-203. Acts 1999, No. 652, § 3; 2019, No. 315, § 336; 2019, No. 910, § 1851.

6-50-204. Acts 1999, No. 652, § 4; 2003, No. 1160, § 1; 2017, No. 565, § 3; 2019, No. 910, § 1852.

6-50-205. Acts 1999, No. 652, § 5; 2019, No. 910, § 1853.

6-50-206. Acts 1999, No. 652, § 6; 2003, No. 1160, § 2; 2019, No. 315, § 337.

6-50-207. Acts 1999, No. 652, § 7; 2005, No. 1232, § 10; 2019, No. 315, §§ 338, 339; 2019, No. 910, § 1854.

6-50-208. Acts 1999, No. 652, § 8.

Former subchapter 2, concerning the Technical Education Review Commission, was repealed by Acts 1989, No. 536, § 9. The subchapter was derived from the following sources:

6-50-201. Acts 1983, No. 447, § 7; A.S.A. 1947, § 80-5707.

6-50-202. Acts 1983, No. 447, § 1; A.S.A. 1947, § 80-5701.

6-50-203. Acts 1983, No. 447, § 2; A.S.A. 1947, § 80-5702.

6-50-204. Acts 1983, No. 447, § 3; A.S.A. 1947, § 80-5703.

6-50-205. Acts 1983, No. 447, § 4; A.S.A. 1947, § 80-5704.

6-50-206. Acts 1983, No. 447, § 5; A.S.A. 1947, § 80-5705.

6-50-207. Acts 1983, No. 447, § 6; A.S.A. 1947, § 80-5706.

SUBCHAPTER 3 — ADVISORY COUNCIL FOR VOCATIONAL-TECHNICAL EDUCATION

[Repealed.]

SECTION.

6-50-301 — 6-50-305. [Repealed.]

6-50-301 — 6-50-305. [Repealed.]

Publisher’s Notes. This subchapter was repealed by Acts 1991, No. 1244, § 33. The subchapter was derived from the following sources:

6-50-301. Acts 1985, No. 330, § 1; A.S.A. 1947, § 80-2592.

6-50-302. Acts 1985, No. 330, § 2; A.S.A. 1947, § 80-2592.1.

6-50-303. Acts 1985, No. 330, § 3; A.S.A. 1947, § 80-2592.2.

6-50-304. Acts 1985, No. 330, § 4; A.S.A. 1947, § 80-2592.3.

6-50-305. Acts 1985, No. 330, § 5; A.S.A. 1947, § 80-2592.4.

SUBCHAPTER 4 — VOCATIONAL-TECHNICAL HIGH SCHOOL DISTRICTS

[Repealed.]

SECTION.

6-50-401 — 6-50-407. [Repealed.]

6-50-401 — 6-50-407. [Repealed.]

Publisher’s Notes. This subchapter was repealed by Acts 1993, No. 294, § 17. The subchapter was derived from the following sources:

6-50-401. Acts 1969, No. 323, § 1; A.S.A. 1947, § 80-460.

6-50-402. Acts 1969, No. 323, § 2; A.S.A. 1947, § 80-461.

6-50-403. Acts 1969, No. 323, § 3; A.S.A. 1947, § 80-462.

6-50-404. Acts 1969, No. 323, § 4; A.S.A. 1947, § 80-463.

6-50-405. Acts 1969, No. 323, § 3; A.S.A. 1947, § 80-463.

6-50-406. Acts 1969, No. 323, § 3; A.S.A. 1947, § 80-463.

6-50-407. Acts 1969, No. 323, § 4; A.S.A. 1947, § 80-463.

SUBCHAPTER 5 — ARKANSAS YOUTH APPRENTICESHIP/WORK-BASED LEARNING ACT OF 1991

SECTION.

6-50-501. Title.

6-50-502. Legislative findings.

6-50-503. Establishment of programs.

SECTION.

6-50-504. [Repealed.]

6-50-505. Waiver of rules — Articulation agreements — Duties.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-50-501. Title.

This subchapter may be cited as the “Arkansas Youth Apprenticeship/Work-Based Learning Act of 1991”.

History. Acts 1991, No. 546, § 1; 1991, No. 553, § 1.

6-50-502. Legislative findings.

Whereas workplace changes have profoundly altered and increased the skills required of workers and managers; and

Whereas schools are struggling to improve the basic skills of the school-age population drawn increasingly from “at risk” households where children tend to leave school early; and

Whereas many noncollege-bound youth, especially women and minorities, spend their first years after high school unemployed or job-hopping from one low-skills job to another, with a consequent loss in productivity and access to career-oriented learning; and

Whereas most new jobs that will be created in the 1990s will require some postsecondary education; and

Whereas the economic position of “The Forgotten Half” — noncollege-bound high school graduates — is deteriorating, with real earnings declining by twenty-eight percent (28%) from 1973 to 1986, while the earnings of college graduates have risen; and

Whereas most employers in the United States lack a tradition of strong employee training;

Now, therefore, the State of Arkansas has determined that the establishment of a youth apprenticeship program can contribute significantly to addressing these problems by providing Arkansas’s non-college-bound young people with additional opportunities to develop meaningful job skills.

History. Acts 1991, No. 546, § 1; 1991, No. 553, § 1.

6-50-503. Establishment of programs.

(a) The Division of Career and Technical Education is hereby authorized and directed to develop and implement work-based learning programs to provide additional educational and training opportunities for Arkansas high school students.

(b) The programs established under this section shall be based on the following fundamental principles:

- (1) Providing strong employer commitment and involvement;
- (2) Guiding high school students through a three-year or four-year process that connects high school and the first one (1) or two (2) years of postsecondary learning;
- (3) Providing high-quality supervised learning opportunities for students at the work site;

(4) Integrating academic and vocational teaching and learning in the classroom and at work;

(5) Fostering interactive, team-based learning in the classroom;

(6) Including curriculum on all aspects of the industry;

(7) Using competency-based measures for evaluating student progress;

(8) Providing both academic and occupational credentials;

(9) Providing access and support to nontraditional groups; and

(10) Explicitly addressing issues regarding diversity in society and the workplace.

(c)(1) The industries and occupations selected for the programs established under this section shall offer entry-level jobs with good opportunities for career advancement into high-skill, high-wage jobs.

(2) The division, the Arkansas Apprenticeship Coordination Steering Committee, the Office of Skills Development, and local sites shall take joint responsibility for identifying the industries and occupations selected in subdivision (c)(1) of this section.

(3) The Office of Skills Development is responsible for identifying apprenticeship programs that are currently in place.

History. Acts 1991, No. 546, § 1; 1991, No. 553, § 1; 2019, No. 369, § 1; 2019, No. 910, § 1855; 2021, No. 647, § 1.

Amendments. The 2019 amendment by No. 369, in (a), substituted “work-based learning programs” for “a youth apprenticeship/work-based learning program”, and deleted “noncollege-bound” preceding “Arkansas high school”; substituted “programs established under this section shall” for “program should” in the introductory language of (b); added “Providing” in (b)(1); rewrote (b)(2); substituted “regarding” for “presented by” in (b)(10); substituted “the programs established under this section shall” for “this program must” in (c)(1); in (c)(2), substituted “shall” for “will”, and added “selected in subdivision

(c)(1) of this section”; substituted “is responsible” for “will take responsibility” in (c)(3); and made stylistic changes.

The 2019 amendment by No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education” in (a).

The 2021 amendment, in (c)(2), substituted “Arkansas Apprenticeship Coordination Steering Committee” for “State Apprenticeship Coordination Steering Committee”, and inserted “the Office of Skills Development”; and, in (c)(3), substituted “Office of Skills Development” for “State Apprenticeship Coordination Steering Committee”, and deleted “traditional” preceding “apprenticeship”.

6-50-504. [Repealed.]

A.C.R.C. Notes. The repeal of this section by Acts 2019, No. 369, § 2 superseded the amendment of this section by Acts 2019, No. 910, § 1856. The amendment by Acts 2019, No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education” in (a).

Publisher’s Notes. This section, con-

cerning demonstration programs, was repealed by Acts 2019, No. 369, § 2, effective July 24, 2019. The section was derived from Acts 1991, No. 546, § 1; 1991, No. 553, § 1; 1991, No. 1244, § 28; 1991, No. 1246, § 3; 1999, No. 1323, § 30; 2019, No. 910, § 1856.

6-50-505. Waiver of rules — Articulation agreements — Duties.

(a) The State Board of Education may provide waivers of rules adopted by the Division of Career and Technical Education when waivers are necessary to accomplish the purposes of this subchapter so long as the waivers will not weaken the quality of the educational opportunities provided.

(b)(1) The division also shall take the lead role in seeking the establishment of articulation agreements between high schools, technical institutes or vocational-technical schools, and institutions of higher education, with a goal of eliminating barriers to lifelong learning.

(2) The resulting articulation agreements will need to be approved by the appropriate local and state boards of the participating school districts, postsecondary technical institutes or vocational-technical schools, and institutions of higher education.

(c) The state board is authorized to promulgate rules for the implementation of the program established by this subchapter.

History. Acts 1991, No. 546, § 1; 1991, No. 553, § 1; 1999, No. 1323, § 31; 2019, No. 315, §§ 340, 341; 2021, No. 467, § 3; 2021, No. 545, § 8.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (a); and deleted “and regulations” following “rules” in (c).

The 2021 amendment by No. 467, in (a), substituted “State Board of Education” for

“State Board of Career Education” and “Division of Career and Technical Education” for “Department of Career Education”.

The 2021 amendment by No. 545 substituted “State Board of Education” for “Career Education and Workforce Development Board” in (a).

SUBCHAPTER 6 — ARKANSAS ADVISORY COUNCIL FOR VOCATIONAL-TECHNICAL EDUCATION

[Repealed.]

SECTION.

6-50-601 — 6-50-605. [Repealed.]

6-50-601 — 6-50-605. [Repealed.]

Publisher’s Notes. This subchapter was repealed by Acts 1999, No. 1323, § 29. The subchapter was derived from the following sources:

6-50-601. Acts 1995, No. 492, § 1; 1997, No. 540, § 6.

6-50-602. Acts 1995, No. 492, § 2.

6-50-603. Acts 1995, No. 492, §§ 2, 4.

6-50-604. Acts 1995, No. 492, § 3.

6-50-605. Acts 1995, No. 492, § 5; 1997, No. 250, § 23.

SUBCHAPTER 7 — ARKANSAS EXISTING WORKFORCE TRAINING ACT OF 1995

SECTION.

6-50-701. Title.

SECTION.

6-50-702. Definitions.

SECTION.

6-50-703. Arkansas Existing Workforce Training Program — Creation — Purpose.

SECTION.

6-50-704. Rules for program.

6-50-705. Uses for grant funds or tax credits.

Effective Dates. Acts 1995, No. 791, § 9: Mar. 24, 1995. Emergency clause provided: “It is hereby found and determined by the General Assembly of the State of Arkansas that the training needs of the existing and future workforce of this state is critical to economic development and expansion of job opportunities and that any delay in the effective date of this act could work irreparable harm upon the proper administration and provision of such training and to the agencies charged with implementation of this Act. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after the date of its passage and approval.”

Acts 1999, No. 1134, § 8: Apr. 6, 1999. Emergency clause provided: “It is hereby found and determined by the Eighty-second General Assembly that the training needs of the existing and future workforce of this state is critical to economic development and expansion of job opportunities; that the availability of training opportunities must coincide with the availability of training funds to prevent a period where our workforce does not have this training available; and that any delay in the effective date of this act could work irreparable harm upon the proper administration and provision of such training and to the agencies charged with implementation of this act. Therefore, an emer-

gency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-50-701. Title.

This subchapter may be referred to and cited as the “Arkansas Existing Workforce Training Act of 1995”.

History. Acts 1995, No. 791, § 1.

6-50-702. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Basic skills training" means those math, reading, English, listening, oral and written communication, and computer literacy skills that a person can reasonably be expected to have attained by the end of the twelfth grade except in the instance of potential new workforce training;

(2) "Classroom training" means instructor-led training that is provided outside the process of the production of goods or the delivery of a service;

(3)(A) "Consortium" means a group of companies that includes at least three (3) eligible companies as defined in subdivision (4) of this section and which for fiscal purposes is either a private, not-for-profit corporation or an organized group that has a coordinating board or committee and a mission statement, that has or is in the process of developing bylaws, and that is establishing a bank account requiring at least two (2) consortium members' signatures.

(B) Consortia may have members that are not eligible companies so long as at least three (3) of the consortium member companies are eligible companies.

(C) Fifty percent (50%) of the eligible participants completing each course must be employees of eligible companies;

(4)(A) "Eligible company" means an entity currently operating in the state that has filed a corporate income tax return for the year prior to the year in which the application was submitted and is classified in one (1) of the following ways:

(i) Manufacturers classified in sectors 31-33 under the North American Industry Classification System as it existed on January 1, 2007;

(ii) Manufacturers classified in sectors 20-39 according to the Standard Industrial Classification standards as they existed on January 1, 2007, but which are classified in another sector under the North American Industry Classification System as it existed on January 1, 2007;

(iii)(a) Businesses primarily engaged in the design and development of prepackaged software, digital content production and preservation, computer processing and data preparation services, or information retrieval services.

(b) All businesses under subdivision (4)(A)(iii)(a) of this section shall derive at least seventy-five percent (75%) of their sales revenue from out of state;

(iv)(a) Businesses primarily engaged in motion picture productions.

(b) All businesses under subdivision (4)(A)(iv)(a) of this section shall derive at least seventy-five percent (75%) of their sales revenue from out of state;

(v) An intermodal facility or distribution center, if seventy-five percent (75%) of its sales revenue is from out of state;

(vi) An office sector business, if seventy-five percent (75%) of its sales revenue is from out of state;

(vii) Firms primarily engaged in commercial, physical, and biological research as classified under the North American Industry Classification System code 541710 as it existed on January 1, 2003;

(viii) A national or regional corporate headquarters as classified under North American Industry Classification System code 551114 as it existed on January 1, 2003, if the national or regional headquarters serves more than one (1) state;

(ix)(a) A scientific and technical services business.

(b)(1) All businesses under subdivision (4)(A)(ix)(a) of this section shall derive at least seventy-five percent (75%) of their sales revenue from out of state.

(2)(A) The average hourly wages paid by businesses in this group shall not exceed one hundred fifty percent (150%) of the county average hourly wage or the state average hourly wage, whichever is less.

(B) The average hourly wage threshold determined at the signing of the financial incentive agreement shall be the threshold for the term of the agreement;

(x)(a) All building trade industries classified under North American Industry Classification System codes 236 and 238 as they existed on January 1, 2003.

(b) A business classified under North American Industry Classification System code 23899 shall not qualify as a building trade industry; and

(xi) Air transport businesses primarily engaged in aircraft maintenance, repair services, and aircraft testing as classified under North American Industry Classification System code 488190 as it existed on January 1, 2007.

(B) The Director of the Arkansas Economic Development Commission may classify a nonretail business as an eligible company if:

(i) The business receives at least seventy-five percent (75%) of its sales revenue from out of state; and

(ii) The business proposes to pay wages in excess of one hundred ten percent (110%) of the county average hourly wage or state average hourly wage, whichever is less;

(5) "Eligible recipient" means a full-time permanent employee of an Arkansas company or consortium who is subject to the Arkansas personal income tax;

(6) "Governing council" means the Director of the Arkansas Economic Development Commission, the Director of the Division of Higher Education, and the Director of the Office of Skills Development, or their designees;

(7) "Internal training" means classroom training provided to company employees by company trainers who may be either full-time employees of the company or consultants paid by the company;

(8) "Potential new workforce" means two (2) or more eligible companies with common job skill requirements requiring a minimum of

fifteen (15) new employees and conducting a minimum of fifteen (15) hours of preemployment training, thereby allowing prospective employees and employers an opportunity to evaluate one another before making employment commitments; and

(9)(A) "State-supported educational institution" means a secondary or postsecondary Arkansas educational institution that receives the majority of its funding from state or local tax revenues.

(B) However, for purposes of this subchapter, Texarkana College may be considered a state-supported educational institution for the purpose of delivering training services to eligible companies located in Miller County, if Texarkana College continues to waive out-of-state tuition for residents of Arkansas.

History. Acts 1995, No. 791, § 2; 1997, No. 540, § 7; 1999, No. 1134, § 1; 2003, No. 609, § 1; 2007, No. 1003, § 1; 2019, No. 910, § 143.

Amendments. The 2019 amendment, in (6), substituted "Director of the Arkansas Economic Development Commission,

the Director of the Division of Higher Education, and the Director of the Office of Skills Development" for "directors of the Arkansas Economic Development Commission, the Department of Higher Education, and the Department of Career Education".

6-50-703. Arkansas Existing Workforce Training Program — Creation — Purpose.

(a) There is created the Arkansas Existing Workforce Training Program, to be administered by a governing council composed of equal representation from the Division of Higher Education, the Office of Skills Development, and the Arkansas Economic Development Commission.

(b) The primary purpose of the program shall be to provide financial assistance to Arkansas business and industry for upgrading the knowledge and skills of the existing workforce or a potential new workforce and to increase the capacity of state-supported educational institutions to supply the ongoing training needs of Arkansas companies.

(c)(1)(A) When an eligible company uses a state-supported educational institution to provide its classroom training, financial support can be either in the form of a direct grant or in the form of an income tax credit.

(B) Companies that elect to receive a grant cannot claim a tax credit for the same purpose.

(2) When an eligible company is conducting internal training using company trainers or consultants, financial support can be only in the form of an income tax credit.

(3) When an eligible consortium uses a state-supported educational institution to provide its classroom training, financial support can be only in the form of a grant.

History. Acts 1995, No. 791, § 3; 1997, No. 540, § 8; 1999, No. 1134, § 2; 2007, No. 1003, § 2; 2019, No. 910, § 1857;

2021, No. 467, § 4; 2021, No. 545, § 9; 2021, No. 647, § 2.

Amendments. The 2019 amendment

substituted "Division of Higher Education" for "Department of Higher Education" and "Division of Career and Technical Education" for "Department of Career Education" in (a).

The 2021 amendment by No. 467, in (a), deleted "hereby" preceding "created" and substituted "Office of Skills Development" for "Division of Career and Technical Education".

The 2021 amendment by No. 545 substituted "Office of Skills Development" for "Division of Career and Technical Education" in (a).

The 2021 amendment by No. 647 substituted "Office of Skills Development" for "Division of Career and Technical Education" in (a); and made a stylistic change.

6-50-704. Rules for program.

(a) The Arkansas Economic Development Commission shall promulgate rules under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., for implementation of this subchapter by the commission.

(b) Rules shall include, but not be limited to, the following:

(1) Training shall be conducted for the purpose of meeting specific business goals and performance objectives;

(2) As part of the application process, a company or consortium shall be responsible for determining that participants involved in the training program possess the appropriate prerequisite literacy skills;

(3)(A) The amount of financial support a company or consortium receives shall be determined and approved by the commission and set forth in writing prior to any funds' being committed and distributed or prior to any tax credits' being approved.

(B) For companies or consortia that use state-supported educational institutions to deliver classroom training to their employees, the amount of support shall be the lesser of:

(i) One-half ($\frac{1}{2}$) of the amount paid by the company to the state-supported educational institution for the training;

(ii)(a) The instructional hour rate established by the governing council, not to exceed one hundred dollars (\$100) per instructional hour, times the number of instructional hours delivered with fifty percent (50%) or more of the eligible participants completing the course.

(b) For companies that use company employees or company-paid consultants to deliver classroom training to their employees, the amount of the tax credit shall not be more than twenty-five dollars (\$25.00) per instructional hour.

(c)(1) The minimum class size needed to receive full benefits is five (5) trainees.

(2) For classes smaller than five (5), the amount of support will be reduced proportionally;

(iii) The instructional hour rate established by the governing council, not to exceed thirty-five dollars (\$35.00) per instructional hour, times the number of instructional hours for safety-related training; or

(iv) The instructional hour rate established by the governing council, not to exceed thirty-five dollars (\$35.00) per instructional

hour, times the number of instructional hours for all courses with less than fifty percent (50%) of the eligible participants completing each course;

(4) Training delivered by means other than traditional classroom training may be considered by the governing council. For approved training delivered by means other than traditional classroom training, a flat rate of reimbursement will be established by the governing council;

(5) Applications for tax credits afforded by this subchapter shall be available on and after January 1, 2000;

(6) The maximum amount of total tax credits allowed by the commission pursuant to this subchapter shall not exceed four hundred fifty thousand dollars (\$450,000) per year;

(7) Neither grant funds nor tax credits shall be used to support any training, including remedial basic skills training, that is authorized under any other state or federal program; and

(8) Neither grant funds nor tax credits shall be used to support any training that is mandated by any state law, state rule, federal law, or federal regulation.

History. Acts 1995, No. 791, § 4; 1997, No. 540, § 9; 1999, No. 1134, § 3; 2003, No. 609, § 2; 2007, No. 1003, § 3; 2013, No. 755, § 1; 2019, No. 315, § 342.

Amendments. The 2019 amendment substituted “state law, state rule, federal law, or federal regulation” for “state or federal law or regulation” in (b)(8).

6-50-705. Uses for grant funds or tax credits.

(a) The Arkansas Existing Workforce Training Program shall provide matching funds or approve income tax credits to eligible companies or consortia at a rate to be determined by the governing council.

(b) Matching funds may be provided to state-supported educational institutions to upgrade the skills of regular or adjunct faculty if approved by the governing council. Matching funds to upgrade faculty skills will only be granted when there is a documented demand for training in the area served by the educational institution and when there is no faculty member who can provide the needed training.

History. Acts 1995, No. 791, § 5; 1999, No. 1134, § 4.

SUBCHAPTER 8 — WORKFORCE DEVELOPMENT CENTER AUTHORITY ACT

SECTION.

6-50-801. Title.

6-50-802. Purpose — Construction.

6-50-803. Definitions.

6-50-804. Workforce development center authority — Creation — Public corporation — Immunity.

6-50-805. Board of directors.

SECTION.

6-50-806. Powers generally.

6-50-807. Financing generally — Exemption from taxation or assessment.

6-50-808. Bonds — Sale.

6-50-809. Accounts — Report — Audit.

6-50-810. Dissolution.

6-50-801. Title.

This subchapter shall be known and may be cited as the “Workforce Development Center Authority Act”.

History. Acts 2017, No. 509, § 1.

6-50-802. Purpose — Construction.

(a) It is the purpose of this subchapter to:

(1) Enhance the availability, accessibility, responsiveness, and quality of vocational and technical education in this state;

(2) Assist cities and counties in upgrading the knowledge and skills of their existing workforce or potential new workforce;

(3) Encourage and facilitate cooperation between cities, counties, school districts, and vocational-technical schools; and

(4) Develop new funding sources for vocational and technical education.

(b) This subchapter shall be liberally construed to accomplish its intent and purposes and shall be the sole authority required for the accomplishment of its purpose.

History. Acts 2017, No. 509, § 1.

6-50-803. Definitions.

As used in this subchapter:

(1) “Area of operation” means, for a workforce development center authority, the area within the combined geographical boundaries of every school district, city, and county that is a sponsor of a workforce development center authority;

(2) “Sponsor” means a school district, city, county, or vocational-technical school that is a sponsor of a workforce development center authority;

(3) “Vocational-technical school” means:

(A) A publicly supported vocational-technical school under § 6-51-202;

(B) A publicly supported technical institute under § 6-51-217; or

(C) A two-year or four-year state-supported institution of higher education that operates or has been approved to operate a secondary vocational center as of January 1, 2017;

(4) “Workforce development center” means a public education facility established by a workforce development center authority for any purpose of this subchapter; and

(5) “Workforce development center authority” means a public educational institution created under this subchapter to operate one (1) or more workforce development centers and to further the purposes of this subchapter.

History. Acts 2017, No. 509, § 1.

6-50-804. Workforce development center authority — Creation — Public corporation — Immunity.

(a)(1) Four (4) or more sponsors listed under subdivision (a)(2) of this section may create a workforce development center authority.

(2) A workforce development center authority's four (4) or more sponsors:

(A) Shall include:

(i) One (1) or more school districts; and

(ii) One (1) or more vocational-technical schools; and

(B) May include one (1) or more cities or counties.

(b)(1) A county or city shall not sponsor a workforce development center authority unless the governing body of the county or city provides by ordinance to sponsor the workforce development center authority.

(2) A school district or vocational-technical school shall not sponsor a workforce development center authority unless the governing body of the school district or vocational-technical school provides by resolution to sponsor the workforce development center authority.

(c)(1) The sponsors of a workforce development center authority shall enter into an agreement establishing the terms and conditions for operation of the workforce development center authority.

(2) To the extent consistent with this subchapter, the agreement shall specify the information provided for in § 25-20-104(c) of the Interlocal Cooperation Act, § 25-20-101 et seq.

(3) The agreement shall be filed with the Secretary of State.

(d) By action of the board of directors of the workforce development center authority, a workforce development center authority established under this subchapter may add one (1) or more sponsors to the creating sponsors under subsection (a) of this section.

(e)(1) Each workforce development center authority and its sponsors:

(A) Shall constitute a public corporation;

(B) Shall have perpetual succession;

(C) May contract and be contracted with;

(D) May sue and be sued; and

(E) May have and use a common seal.

(2) The exercise of the powers and performance of duties provided for in this subchapter by each workforce development center authority and its officers, agents, and employees are declared to be public and governmental functions, exercised for a public purpose and matters of public necessity, conferring upon each workforce development center authority governmental immunity from suit in tort.

History. Acts 2017, No. 509, § 1.

6-50-805. Board of directors.

(a) The management and control of each workforce development center authority and its property, operations, business, and affairs shall be lodged in a board of directors of not less than five (5) members.

(b)(1) The membership of the board of directors shall include:

(A) The superintendent of each sponsoring school district, or his or her designee; and

(B) The president or executive director of each sponsoring vocational-technical school, or his or her designee.

(2) The membership of the board of directors may include, as determined by the agreement establishing the terms and conditions for the operation of the workforce development center authority, one (1) or more of the following:

(A) The county judge of one (1) or more sponsoring counties, or his or her designee;

(B) The mayor of one (1) or more sponsoring cities, or his or her designee; and

(C)(i) One (1) or more individuals appointed by the board of directors of one (1) or more sponsoring school districts.

(ii) The agreement establishing the terms and conditions for the operation of the workforce development center authority may define the term lengths, qualifications, and process for filling vacancies for individuals appointed by a school district board of directors.

(c) The board of directors shall elect a chair and other officers as determined by the board of directors.

(d) The members of the board of directors shall receive no compensation for their services but shall be entitled to reimbursement of expenses incurred in the performance of their duties.

History. Acts 2017, No. 509, § 1.

6-50-806. Powers generally.

The board of directors of a workforce development center authority created under this subchapter may:

(1) Make and adopt all necessary bylaws for its organization and operation;

(2) Elect officers and employ personnel necessary for its operation;

(3) Delegate any authority given to it by law to any of its officers, committees, agents, or employees;

(4)(A) Enter into contracts and agreements necessary or incidental to its powers and duties under this subchapter.

(B) A workforce development center authority's power to contract includes without limitation the power to contract with one (1) or more of its sponsors for the provision of services or programs to advance any purpose of this subchapter;

(5) Apply for, receive, and spend grants for any purpose of this subchapter;

(6) Acquire lands and hold title to the lands acquired in its own name;

(7) Acquire, own, lease, use, sell, encumber, and dispose of property in the exercise of its powers and the performance of its duties under this subchapter;

(8) Borrow money on a secured or unsecured basis, and in connection therewith issue bonds, promissory notes, or other evidence of indebtedness, and make and deliver indentures, mortgages, pledges, security agreements, financing statements, and other instruments encumbering assets of the workforce development center authority;

(9) Acquire, equip, construct, maintain, and operate one (1) or more workforce development centers and appurtenant facilities or properties;

(10) Promote, advertise, and publicize the workforce development center authority and its workforce development centers; and

(11) Do all things necessary or appropriate to carry out the powers and duties expressly granted or imposed under this subchapter.

History. Acts 2017, No. 509, § 1.

6-50-807. Financing generally — Exemption from taxation or assessment.

(a) A workforce development center authority may request, receive, and be financed or supported by any revenue, grants, or funds allowed by law, including without limitation:

(1) Funds provided by counties, cities, school districts, and vocational-technical schools;

(2) Property or funds received by gift or donation;

(3) Grants;

(4) Proceeds from the sale or issuance of bonds, promissory notes, or other evidence of indebtedness;

(5) Tuition, fees, and other charges assessed on individuals or employers receiving services from a workforce development center authority;

(6) Other state funding that is appropriated;

(7) Other funds or loans from a state or federal agency;

(8) If requested and adopted, revenue from the levy by a sponsoring county of a sales tax or sales and use tax under § 26-74-201 et seq., § 26-74-301 et seq., and § 26-74-401 et seq. for the benefit of the workforce development center authority;

(9) If requested and adopted, revenue from the levy by a sponsoring city of a sales tax or sales and use tax under § 26-75-201 et seq. and § 26-75-301 et seq. for the benefit of the workforce development center authority;

(10)(A) If authorized by law, requested, and adopted, revenue from the levy of an additional sales and use tax for the benefit of a workforce development center authority by a county or city not to exceed five-tenths of one percent (0.5%).

(B) A sales and use tax levied as described in this subdivision (a)(10) is in addition to any taxes levied under subdivisions (a)(8) and (9) of this section;

(11) If requested and adopted, revenue from the levy by a sponsoring school district of an additional ad valorem property tax under § 26-80-102 to secure the enrollment of a minimum number of the school district's students in a workforce development center operated by the workforce development center authority; and

(12) If authorized by law, requested, and adopted, revenue from the levy by a sponsoring city or county of an additional ad valorem property tax for the benefit of the workforce development center authority.

(b) Taxes imposed under subdivisions (a)(8)-(12) of this section shall be approved by voters pursuant to all applicable election laws.

(c)(1)(A) Counties, pursuant to an ordinance properly and lawfully adopted by their quorum courts, may annually grant financial aid to any workforce development center authority operating within their borders for the purpose of assisting the workforce development center authority in paying its lawful expenses of operation.

(B) The ordinance shall be effective for a period of twelve (12) months.

(2)(A) Incorporated towns and cities of the first class or second class, pursuant to an ordinance properly and lawfully adopted by their governing bodies, may annually grant financial aid to any workforce development center authority operating within their borders for the purpose of assisting the workforce development center authority in paying its lawful expenses of operation.

(B) The ordinance shall be effective for a period of twelve (12) months.

(3)(A) School districts, pursuant to a resolution properly and lawfully adopted by their governing bodies, may appropriate funds to any workforce development center authority operating within their borders for the purpose of securing the enrollment of a minimum number of the school district's students in a workforce development center operated by the workforce development center authority.

(B) Funds appropriated by a school district to a workforce development center authority under this subdivision (c)(3), and any ad valorem property tax revenue pledged by a school district under subdivision (a)(11) of this section, are maintenance and operation expenses under § 26-80-102 and Arkansas Constitution, Article 14, § 3.

(d) A county, city, or vocational-technical school located within the area of operation of a workforce development center authority may:

(1) Contribute funds for the benefit of the workforce development center authority, including without limitation funds for the cost of acquiring, constructing, equipping, maintaining, and operating workforce development centers operated by the workforce development center authority;

(2) Pledge tax revenue for the benefit of the workforce development center authority as allowed by law; and

(3) Transfer and convey property to the workforce development center authority for any purpose of this subchapter.

(e)(1) A workforce development center authority is exempt from ad valorem property taxation or assessments on property acquired or used by the workforce development center authority for any purpose of this subchapter.

(2) Income from the operation of the workforce development center authority shall be exempt from state income tax.

History. Acts 2017, No. 509, § 1.

Cross References. Dedication of sales and use tax to school district, § 26-73-114.

6-50-808. Bonds — Sale.

(a) A workforce development center authority may issue bonds for:

(1) The cost of acquiring, constructing, equipping, maintaining, and operating one (1) or more workforce development centers operated by the workforce development center authority within its area of operation;

(2) The cost of issuing the bonds;

(3) Any outstanding indebtedness of the workforce development center authority, including without limitation interest on the bonds; and

(4) Refunding any obligations issued under this subchapter.

(b) Bonds issued under this subchapter:

(1) Including any income from the bonds, or any profit made on the sale or transfer of the bonds, are exempt from taxation in this state;

(2) Shall be authorized by the board of directors of a workforce development center authority through a resolution containing any terms, covenants, and conditions that the board of directors of the workforce development center authority deems to be reasonable and desirable;

(3) Shall have all of the qualities of and shall be deemed to be negotiable instruments under the laws of the State of Arkansas; and

(4) May be sold in such a manner, either at public or private sale, and upon such terms as the board of directors of a workforce development center authority shall determine to be reasonable and expedient for effectuating the purposes of this subchapter.

(c) Bonds, promissory notes, or other evidence of indebtedness issued under this subchapter:

(1) Are not backed by the full faith and credit of the State of Arkansas or the sponsors of the workforce development center authority; and

(2) Shall not in any event constitute an indebtedness of, nor pledge the faith and credit of, the State of Arkansas or a sponsor of the workforce development center authority within the meaning of any constitutional provisions or limitations.

History. Acts 2017, No. 509, § 1.

6-50-809. Accounts — Report — Audit.

(a)(1) The board of directors of a workforce development center authority:

(A) Shall deposit the funds received by the workforce development center authority into bank accounts as determined by the board of directors; and

(B) May withdraw funds from the bank accounts as determined by the board of directors.

(2)(A) Each workforce development center authority shall:

(i) Keep strict account of all of its receipts and expenditures; and

(ii) Make a report each quarter to the governing bodies of each sponsor.

(B) The report shall contain an itemized account of the workforce development center authority's receipts and disbursements during the preceding quarter.

(C) The report shall be made within sixty (60) days after the end of the quarter.

(b)(1)(A)(i) Within sixty (60) days after the end of each fiscal year, each workforce development center authority shall cause an annual audit to be made by an independent certified public accountant.

(ii) Each workforce development center authority shall file a copy of the resulting audit report with the governing bodies of each sponsor.

(B) The audit shall contain an itemized statement of the workforce development center authority's receipts and disbursements for the preceding year.

(2) The books, records, and accounts of each workforce development center authority shall be subject to audit and examination by any proper public official or body in the manner provided by law.

History. Acts 2017, No. 509, § 1.

6-50-810. Dissolution.

(a) If a workforce development center authority does not have any outstanding indebtedness, the board of directors of a workforce development center authority may adopt a resolution, which shall be entered in its minutes, declaring that the workforce development center authority shall be dissolved.

(b) The resolution dissolving the workforce development center authority shall provide for allocation of the workforce development center authority's remaining assets among the sponsors as of the date of dissolution.

(c) Upon the filing for record of a certified copy of the resolution with the Secretary of State, the workforce development center authority is dissolved.

History. Acts 2017, No. 509, § 1.

CHAPTER 51

VOCATIONAL AND TECHNICAL SCHOOLS

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ESTABLISHMENT AND ADMINISTRATION GENERALLY.
3. MULTIDISTRICT VOCATIONAL CENTERS.
4. PLUMBING PROGRAM. [REPEALED.]
5. HOUSING CONSTRUCTION PROGRAM. [REPEALED.]
6. PRIVATE RESIDENT AND CORRESPONDENCE SCHOOLS.
7. ASSOCIATE OF APPLIED SCIENCE DEGREE IN NURSING PROGRAM.
8. COMMUNITY-BASED EDUCATION CENTERS.
9. POSTSECONDARY VOCATIONAL AND TECHNICAL EDUCATION.
10. MODEL VOCATIONAL-TECHNICAL EDUCATION RESOURCE CENTER ACT OF 1993. [REPEALED.]
11. PROCEDURES TO FOLLOW UPON MERGER OF CROWLEY'S RIDGE TECHNICAL INSTITUTE TO EAST ARKANSAS COMMUNITY COLLEGE.

A.C.R.C. Notes. Acts 2021, No. 497, § 1, provided: "The Riverside Vocational and Technical School is reorganized into the Corrections School System."

Acts 2021, No. 497, § 2, provided: "Legislative intent. It is the intent of the General Assembly to:

"(1) Expand the ability of the correctional school district to provide remediation instruction to persons with a high school diploma or general equivalency degree;

"(2) Align career and technical education for incarcerated persons with industry needs;

"(3) Recognize the importance of coordination with the Division of Career and Technical Education and the Office of Skills Development, thereby ensuring that every student in the state is truly prepared for the twenty-first-century workforce; and

"(4) Increase resources for instruction and instructional support through the elimination of duplicative operational structures."

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 6-51-101. Vehicle registration — Tax and fee exemptions.
- 6-51-102. Eye protection — Definitions.
- 6-51-103. Required admission for certain students.

SECTION.

- 6-51-104. [Repealed.]
- 6-51-105. Priorities — Vocational-technical institutions.

Effective Dates. Acts 1965, No. 48, § 4: effective at beginning of 1965-66 school year.

Acts 1981, No. 732, § 11: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the Seventy-

Third General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1981 is essential to the operation of the agency for which the

appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1981 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

Acts 1997, No. 1347, § 57: July 1, 1997. Emergency clause provided: "It is hereby found and determined by the Eighty-First General Assembly, that the Constitution of the State of Arkansas prohibits the

appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1997 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1997 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1997."

6-51-101. Vehicle registration — Tax and fee exemptions.

(a) All motor vehicles owned and operated by publicly financed vocational-technical schools, technical colleges, and community colleges in the state and used exclusively for training purposes shall be exempt from:

- (1) State, county, and municipal taxes; and
- (2) All vehicle registration fees.

(b)(1) Each publicly supported vocational-technical school, technical college, and community college in the state now owning or hereafter acquiring one (1) or more motor vehicles used exclusively for training purposes shall register vehicles in the same manner as is provided by law for other motor vehicles, but no charge shall be made for the registration of the vehicles.

(2) All vocational-technical school, technical college, and community college buses registered under the provisions of this section shall be properly identified as vocational-technical school, technical college, and community college vehicles.

History. Acts 1973, No. 476, §§ 1, 2; A.S.A. 1947, §§ 80-2586, 80-2586.1; Acts 1995, No. 1297, § 1.

6-51-102. Eye protection — Definitions.

(a) Every student and teacher in the public schools, colleges, vocational schools, and universities of this state participating in any of the following courses is required to wear industrial-quality eye protective devices at all times while participating in the following courses or laboratories:

(1) Vocational or industrial arts shops or laboratories involving experience with:

- (A) Hot molten metals;

- (B) Milling, sawing, turning, shaping, cutting, grinding, or stamping of any solid materials;
- (C) Heat treatment, tempering, or kiln firing of any metal or other materials;
- (D) Gas or electric arc welding;
- (E) Any of the processes listed in this section which may be used for repairing a vehicle; or
- (F) Caustic or explosive materials; or
- (2) Chemical or combined chemical-physical laboratories involving caustic or explosive chemicals or hot liquids or solids.
- (b) A board of education may in its discretion:
 - (1) Purchase eye protective devices and furnish them free to students and teachers;
 - (2) Purchase eye protective devices and sell or rent the devices to students and teachers; or
 - (3) Require students and teachers to furnish their own eye protective devices without cost to the school, college, or university.
- (c) As used in this section:
 - (1) A "board of education" shall be construed to include school district boards of directors of this state, county boards of education, or the trustees of the various state-supported institutions of higher education in this state; and
 - (2) "Industrial-quality eye protective devices" means devices meeting the standards of the American standard safety code for head, eye, and respiratory protection, Z2. 1-1959, promulgated by the American National Standards Institute.

History. Acts 1965, No. 48, §§ 1-3; §§ 1-3, are also codified as §§ 6-10-113 A.S.A. 1947, § 80-1634 — 80-1636. and 6-61-108.

Publisher's Notes. Acts 1965, No. 48,

6-51-103. Required admission for certain students.

Any student who has met, or is in the process of meeting, the state requirements for graduation shall not be denied access to any program of vocational education if space is available within the program.

History. Acts 1981, No. 732, § 6; A.S.A. 1947, § 80-2510.1.

6-51-104. [Repealed.]

Publisher's Notes. This section, concerning priorities, was repealed by Acts 2013, No. 1138, § 78. This section was derived from Acts 1991, No. 1192, § 50.

6-51-105. Priorities — Vocational-technical institutions.

A high priority of the vocational-technical institutions shall be to combat illiteracy and to provide industrial training in the workplace.

History. Acts 1997, No. 1347, § 34.

SUBCHAPTER 2 — ESTABLISHMENT AND ADMINISTRATION GENERALLY

SECTION.

- 6-51-201. Receipt and administration of federal funds.
- 6-51-202. Authority to establish schools.
- 6-51-203. Determining school location and establishing courses of instruction.
- 6-51-204. Public school or community branches — Special instruction.
- 6-51-205. Responsibility for school operation — Personnel and equipment.
- 6-51-206. Local boards' authority to sell, convey, or lease unneeded lands.
- 6-51-207. Authority to accept gifts and donations.
- 6-51-208. Student fees.
- 6-51-209. Accident insurance for students.
- 6-51-210. Disposition of funds generally.

SECTION.

- 6-51-211. Acceptance of certain federal benefits promoting vocational education.
- 6-51-212. Custodian of certain funds — Disbursement.
- 6-51-213. Administration of certain federal and state vocational education laws.
- 6-51-214. Annual report and statement of finances.
- 6-51-215. Cooperation of various boards in establishing vocational programs — Use of tax moneys.
- 6-51-216. State board authority to acquire and maintain facilities — Bonded indebtedness.
- 6-51-217. Change of name to "technical institute".

Effective Dates. Acts 1931, No. 169, § 198: approved Mar. 25, 1931. Emergency clause provided: "It is found as a fact that the advent of the automobile, and the great improvement in the roads of the State have worked great changes in the system of administering the public schools of the State, and there is occasion to change the boundaries of many such districts before the end of the current school term, to relieve many of them of pressing indebtedness, to immediately administer to the health of many pupils in the schools, and to distribute State Funds to many of the school in the near future to prevent some of them from having to close for the lack of funds; therefore, it is necessary that this act take immediate effect for the preservation of public peace, health, and safety; therefore, an emergency is declared and this act shall take effect and be in force immediately after its passage."

Acts 1957, No. 328, § 12: July 1, 1957.

Acts 1964 (1st Ex. Sess.), No. 8, § 13: Mar. 26, 1964. Emergency clause provided: "Since the Federal Vocational Education Act of 1963 was passed by Congress subsequent to the 1963 Arkansas General Assembly, and since no State appropriation has been made to implement the Act,

and since the Act is designed to relieve the unemployment and drop-out problems that exist nationally, therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of public peace, health, and safety shall be in full force and effect from and after its passage and approval."

Acts 1981, No. 732, § 11: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the Seventy-Third General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1981 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1981 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

Acts 1981, No. 769, § 21: July 1, 1981. Emergency clause provided: "It is hereby found and determined by the Seventy-Third General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1981 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1981 could work irreparable harm upon the proper administration and providing of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1981."

Acts 1983, No. 484, § 4: Mar. 16, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that buildings, structures, parking facilities, dormitory facilities and/or other facilities are badly needed at state supported vocational technical schools and that, except as provided by Act 6 of the First Extraordinary Session of 1968, the Board of Vocational Education does not presently have the authority to issue revenue bonds to purchase, construct, improve, equip and maintain such facilities and the grounds on which they are situated and that it is essential to the proper

and efficient operation of said state supported vocational technical schools that the Board be granted this authority immediately in order to obtain financing for various capital improvement programs at the schools. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in effect from the date of its passage and approval."

Acts 1999, No. 1078, § 92: effective July 1, 2000.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-51-201. Receipt and administration of federal funds.

The Arkansas Higher Education Coordinating Board is designated as the agency of state government to receive and administer any and all federal funds made available to this state for the purpose of assisting the state or school districts in providing for the extension of vocational education of less than college grade in the field of vocational-technical and adult education for persons sixteen (16) years of age and over.

History. Acts 1957, No. 328, § 1; A.S.A. 1947, § 80-2557; Acts 2021, No. 545, § 10.

Amendments. The 2021 amendment

substituted "Arkansas Higher Education Coordinating Board" for "State Board of Career Education".

6-51-202. Authority to establish schools.

(a) The Arkansas Higher Education Coordinating Board is authorized to establish or designate one (1) or more area vocational-technical and adult education schools of less than college grade for the purpose of offering training in the various areas which may be prescribed by the United States Congress for persons sixteen (16) years of age or over.

(b) The location of the school or schools shall be determined by the board by formal resolution which shall be made a part of the minutes of the board, and a copy shall be filed with the Secretary of State.

(c)(1) In the event more than one (1) school is established, the location of the school or schools shall be in different congressional districts until a school has been established in each congressional district.

(2) The board may, without regard to the foregoing limitation, designate any area vocational-technical and adult education school for location on lands owned by any school district which, in its application made and filed with the board, proposes to construct and operate such a school.

(3) However, this authority would be applicable only if state funds for construction of area vocational-technical and adult education schools are not available.

(4) In the event the board designates an area school to be constructed and operated by a school district, the school district board of directors must provide operating funds from local sources, except that federal funds which are now available or which may hereafter be provided by the United States Government may be used as operating funds.

History. Acts 1957, No. 328, § 3; 1964 (1st Ex. Sess.), No. 8, § 11; A.S.A. 1947, § 80-2559; Acts 2021, No. 545, § 11. substituted "Arkansas Higher Education Coordinating Board" for "State Board of Career Education" in (a).

Amendments. The 2021 amendment

6-51-203. Determining school location and establishing courses of instruction.

(a) In determining the location of technical institutes or vocational-technical schools and in establishing the courses of instruction to be offered in the schools, the State Board of Education shall give consideration to:

- (1) Trends in industrial development;
- (2) Concentration of population;
- (3) Concentration of industry;
- (4) Natural resources; and
- (5) Reasonable distance for people in all areas of the state.

(b)(1) The State Board of Education shall develop a course content syllabus for each course of instruction offered in a postsecondary technical institute or vocational-technical school. The course syllabus for each course of instruction shall specify the essential competencies to be taught in the course of instruction.

(2)(A) Each instructor employed in a postsecondary technical institute or vocational-technical school shall utilize the appropriate course syllabus in providing instruction to postsecondary vocational students.

(B) It shall be the responsibility of the director of each postsecondary technical institute or vocational-technical school to ensure that vocational-technical instructors utilize the course syllabi developed pursuant to the provisions of this section in offering instruction to postsecondary vocational-technical students.

(3) The course syllabi required to be developed pursuant to the provisions of this section shall be adopted by the State Board of Education not later than July 1, 1990, and shall be utilized in postsecondary technical institutes or vocational-technical schools in the school year beginning 1990-1991.

(c)(1) The State Board of Education and the Arkansas Higher Education Coordinating Board are hereby authorized to certify certain courses of instruction offered by postsecondary technical institutes or vocational-technical schools as being equivalent to comparable courses offered by public two-year or four-year institutions of higher education.

(2) Any course of instruction offered by postsecondary technical institutes or vocational-technical schools that is certified as equivalent to a comparable course of instruction offered by a two-year or four-year institution of higher education shall be transferable for credit to a public two-year or four-year institution of higher education.

(d) The Arkansas Higher Education Coordinating Board and the State Board of Education shall promulgate rules for implementation of the provisions of this section in accordance with the accreditation standards of the receiving institutions.

(e) Students who matriculate at institutions of higher education shall meet the same standards for college and university admission as are defined in § 6-61-110.

History. Acts 1957, No. 328, § 4; A.S.A. 1947, § 80-2560; Acts 1989, No. 848, § 1; 1999, No. 1323, § 32; 2019, No. 315, § 343.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (d).

6-51-204. Public school or community branches — Special instruction.

In addition to the authority of the Arkansas Higher Education Coordinating Board to establish area vocational-technical and adult education schools as authorized in §§ 6-51-201 — 6-51-203, § 6-51-205, § 6-51-207, § 6-51-208(a)-(c), § 6-51-209, and § 6-51-210, and laws amendatory thereto, the board is authorized, whenever funds are available, to establish branches of those area vocational-technical schools or to offer special vocational-technical instruction at public schools or in other facilities in communities in the area of the respective

vocational-technical schools, as the board may determine is in the interest of the area and whenever sufficient demand may exist.

History. Acts 1967, No. 363, § 1; A.S.A. 1947, § 80-2560.1; Acts 2021, No. 545, § 12. substituted “Arkansas Higher Education Coordinating Board” for “State Board of Career Education”.

Amendments. The 2021 amendment

CASE NOTES

Cited: DuPree v. Alma Sch. Dist. No. 30, 279 Ark. 340, 651 S.W.2d 90 (1983).

6-51-205. Responsibility for school operation — Personnel and equipment.

(a) The State Board of Education shall be responsible for the operation of the schools and shall have authority to purchase, lease, or construct buildings, land, equipment, machinery, and supplies necessary for the teaching of trade, vocational, or other federally aided adult courses of less than college grade.

(b) The state board is authorized to employ personnel, to set salaries which shall be comparable to those received by other similarly positioned personnel in the Division of Elementary and Secondary Education, and to negotiate leases or purchases with any and all agencies of the United States Government for the lease or purchase of suitable facilities, equipment, machinery, and supplies to be used for the purposes authorized by this section and §§ 6-51-201 — 6-51-203, § 6-51-207, § 6-51-208(a)-(c), § 6-51-209, and § 6-51-210.

(c) All laws governing the employment of personnel of the division, including such matters as leave rules and teacher retirement membership, shall apply to employees of all vocational-technical and adult education schools.

History. Acts 1957, No. 328, § 5; A.S.A. 1947, § 80-2561; Acts 2019, No. 315, § 344; 2019, No. 910, § 1858.

Amendments. The 2019 amendment by No. 315 substituted “rules” for “regulations” in (c).

The 2019 amendment by No. 910, in (b), substituted “Division of Elementary and

Secondary Education” for “Department of Education” and substituted “United States Government” for “government of the United States”; and made a stylistic change.

6-51-206. Local boards’ authority to sell, convey, or lease unneeded lands.

(a) The local boards of technical institutes and comprehensive lifelong learning centers are authorized to sell or convey lands belonging to any of the local boards of technical institutes and comprehensive lifelong learning centers of this state if the local board shall determine that the lands are not needed for vocational-technical educational purposes.

(b) In addition, the local boards may enter into long-term leases with private nonprofit organizations for the location of mental health centers and other public service facilities not operated for profit on any of the lands belonging to a technical institute or vocational-technical school in this state if the local board determines that the lands are not required for the present or anticipated future needs of the school and that the lease thereof would serve a beneficial public service.

(c) The lease shall be under those terms, for that period of time, and under those conditions which the local board may determine would be in the best interest of the State of Arkansas and the state's vocational-technical school program.

History. Acts 1981, No. 769, § 20; A.S.A. 1947, § 80-2561.1; Acts 1999, No. 1323, § 33.

6-51-207. Authority to accept gifts and donations.

The Arkansas Higher Education Coordinating Board is granted authority to accept gifts, grants, donations, equipment and materials, and bequests of money and real and personal property for the purposes of this section and §§ 6-51-201 — 6-51-203, § 6-51-205, § 6-51-208(a)-(c), § 6-51-209, and § 6-51-210.

History. Acts 1957, No. 328, § 7; A.S.A. 1947, § 80-2563; Acts 2021, No. 545, § 13.

Amendments. The 2021 amendment

substituted "Arkansas Higher Education Coordinating Board" for "State Board of Career Education".

6-51-208. Student fees.

(a) The State Board of Education may establish a reasonable system of charges as fees to be paid by students in the technical institutes or vocational-technical schools and adult education courses, with the system of charges to be established according to the type of course of instruction and the length thereof.

(b) The rate or fees to be paid by students shall be set by the state board, and all funds accruing in the fiscal year over and above the amount appropriated by the General Assembly from the fund shall be deposited into the State Treasury at the end of the fiscal year.

(c) Employees may not be paid from cash funds unless appropriated for this specific purpose by the General Assembly.

(d) No secondary student or school shall be made to pay a tuition charge as a condition of his or her enrollment in any vocational program funded by the Division of Elementary and Secondary Education while enrolled in a regular high school program.

(e) When any person sixty (60) years of age or older is admitted and enrolls as a student in any state area vocational-technical school, the state board or other appropriate institutional officials shall waive all the general student fee charges for each such student on a space-available basis in existing classes.

History. Acts 1957, No. 328, § 6; 1965, No. 450, § 1; 1977, No. 525, § 2; 1981, No. 732, § 6; A.S.A. 1947, §§ 80-1662, 80-2510.1, 80-2562; Acts 1999, No. 1323, § 34; 2019, No. 910, § 1859.

Amendments. The 2019 amendment substituted “Division of Elementary and Secondary Education” for “Department of Education” in (d).

6-51-209. Accident insurance for students.

(a) The State Board of Education is authorized to expend fees collected from students to provide accident insurance coverage to students.

(b) Such purchases shall follow regular state purchasing procedures and rules.

History. Acts 1957, No. 328, § 9; 1969, No. 174, § 1; A.S.A. 1947, § 80-2565; Acts 2019, No. 315, § 345.

Amendments. The 2019 amendment substituted “rules” for “regulations” in (b).

6-51-210. Disposition of funds generally.

All income of the Arkansas Higher Education Coordinating Board derived from student fees and from the sale of real or personal property or income from other sources as provided in this subchapter belonging to the board shall be deposited into the State Treasury for use by the board in developing a state vocational-technical and adult education program of less than college grade for persons sixteen (16) years of age and over.

History. Acts 1957, No. 328, § 9; 1969, No. 174, § 1; A.S.A. 1947, § 80-2565; Acts 2021, No. 545, § 14.

substituted “Arkansas Higher Education Coordinating Board” for “State Board of Career Education”.

Amendments. The 2021 amendment

6-51-211. Acceptance of certain federal benefits promoting vocational education.

(a) The State of Arkansas accepts the benefits of a federal act passed by the United States Congress entitled, “Carl D. Perkins Career and Technical Education Act of 2006”, as amended, and in effect January 1, 2021.

(b) The state agrees to observe and to comply with all the requirements of the federal act.

History. Acts 1931, No. 169, § 185; Pope’s Dig., § 11627; A.S.A. 1947, § 80-2512; Acts 2021, No. 1027, § 1.

Amendments. The 2021 amendment rewrote (a).

U.S. Code. The Carl D. Perkins Career and Technical Education Act of 2006, referred to in this section, is codified as 20 U.S.C. § 2301 et seq.

6-51-212. Custodian of certain funds — Disbursement.

(a) The Treasurer of State is designated and appointed custodian of all money received by the state from the appropriation made by the Act of the United States Congress referred to in § 6-51-211, and he or she is authorized to receive and to provide for the proper custody of the money and to make disbursements thereof in the manner provided in that federal act for the purposes therein specified.

(b) He or she shall also pay out any money appropriated by the State of Arkansas for the purpose of carrying out the provisions of this act upon the order of the Arkansas Higher Education Coordinating Board.

History. Acts 1931, No. 169, § 186; Pope's Dig., § 11628; A.S.A. 1947, § 80-2513; Acts 2021, No. 545, § 15.

Amendments. The 2021 amendment substituted "Arkansas Higher Education Coordinating Board" for "State Board of Career Education" in (b).

Meaning of "this act". Acts 1931, No. 169, codified as §§ 6-10-101 — 6-10-104, 6-10-107, 6-11-101 — 6-11-105, 6-11-106 [repealed], 6-11-107, 6-11-109 [repealed], 6-11-110, 6-11-111, 6-11-117, 6-12-109 [repealed], 6-12-206 [repealed], 6-13-101 — 6-13-104, 6-13-201 [repealed], 6-13-203 — 6-13-211 [repealed], 6-13-213 [repealed], 6-13-215 [repealed], 6-13-220 [repealed], 6-13-221 [repealed], 6-13-619, 6-13-620, former § 6-13-621 [repealed], 6-14-104

[repealed], 6-14-118, 6-16-101, 6-16-103 — 6-16-105, 6-16-107, 6-16-114 [repealed], 6-17-101 [repealed], 6-17-103 [repealed], 6-17-104, 6-17-105 [repealed], 6-17-401, former 6-17-404 [repealed], 6-17-405 [repealed], 6-18-210 — 6-18-212 [repealed], former 6-18-215 [repealed], 6-18-216 [repealed], 6-18-217, 6-18-218 [repealed], 6-18-219, 6-18-501, 6-18-507, 6-18-701, 6-19-102, 6-20-202 — 6-20-204, 6-20-208 [repealed], 6-20-213 [repealed], 6-20-214 [repealed], 6-20-215 — 6-20-217, 6-20-220 [repealed], 6-20-221, 6-20-222, 6-20-403, 6-20-408 [repealed], 6-20-1201, 6-20-1204 — 6-20-1215, 6-21-101, 6-21-602 [repealed], 6-21-604 — 6-21-606, 6-51-211 — 6-51-215, 26-80-101, 26-80-102, and 26-80-104.

6-51-213. Administration of certain federal and state vocational education laws.

(a) The State Board of Education is designated to:

(1) Carry into effect the provisions of the federal act and this act and have all necessary authority to cooperate with the United States Department of Education in the administration of the federal act;

(2) Administer any legislation pursuant thereto enacted by the General Assembly; and

(3) Administer the funds provided by the United States Government and by the State of Arkansas under the provisions of the respective acts for the promotion of vocational-technical education in agricultural subjects and in trade and industrial subjects, as well as in family and consumer science.

(b) The state board shall have the full authority to:

(1) Formulate plans for the promotion of vocational education in subjects that are an essential and integral part of the public school system of education in the State of Arkansas and provide for the preparation of teachers of those subjects;

(2) Fix the compensation of officials and assistants as may be necessary to administer the federal act and this act for the State of Arkansas;

(3) Make studies and investigations relating to vocational education in such subjects;

(4) Promote and aid in the establishment by local communities of schools, departments, or classes;

(5) Prescribe qualifications for the teachers, directors, and supervisors of subjects and provide for the certification of the teachers, directors, and supervisors;

(6) Cooperate in the maintenance of classes under its own direction and control; and

(7) Establish and determine by general rules the qualifications to be possessed by persons engaged in the training of vocational teachers.

(c)(1) The Director of the Division of Higher Education, by and with the advice and consent of the Arkansas Higher Education Coordinating Board, may designate assistants as may be necessary to carry out properly the provisions of this subchapter.

(2) The director shall also carry into effect rules as the board may require.

(3) The records of the director as far as they pertain to the provisions of this act shall be kept in his or her office.

History. Acts 1931, No. 169, §§ 187, 188; Pope's Dig., §§ 11629, 11630; A.S.A. 1947, §§ 80-2514, 80-2515; Acts 1999, No. 1323, § 35; 2005, No. 1962, § 14; 2019, No. 315, §§ 346, 347; 2019, No. 910, § 1860; 2021, No. 467, § 5; 2021, No. 545, § 16.

Amendments. The 2019 amendment by No. 315 substituted "rules" for "regulations" in (b)(7); and deleted "and regulations" following "rules" in (c)(2).

The 2019 amendment by No. 910 substituted "Director of the Division of Career and Technical Education" for "Director of the Department of Career Education" in (c)(1).

The 2021 amendment by No. 467 substituted "State Board of Education" for "State Board of Career Education" in (a) in the introductory language.

The 2021 amendment by No. 545, in (c)(1), substituted "Director of the Division of Higher Education" for "Director of the Division of Career and Technical Education, as executive officer of the state board for the purpose of administering the federal act and this act, shall", substituted "Arkansas Higher Education Coordinating Board" for "state board", inserted "may" preceding "designate", and substituted "of this subchapter" for "hereof"; and deleted "state" preceding "board" in (c)(2).

Meaning of "this act". See note to § 6-51-212.

U.S. Code. The federal act referred to in this section was repealed by Pub. L. No. 105-33.

6-51-214. Annual report and statement of finances.

The Director of the Division of Career and Technical Education shall make a detailed report annually to the Governor setting forth the conditions of career and technical education in the State of Arkansas, a list of the schools to which federal and state aid has been provided, and a detailed statement of the expenditures of federal funds and of state funds provided in this subchapter.

History. Acts 1931, No. 169, § 192; Pope's Dig., § 11634; A.S.A. 1947, § 80-2517; Acts 1999, No. 1323, § 36; 2021, No. 545, § 17.

Amendments. The 2021 amendment substituted "Director of the Division of

Career and Technical Education" for "State Board of Career Education", "career and technical" for "vocational-technical", and "subchapter" for "act".

Meaning of "this act". See note to § 6-51-212.

6-51-215. Cooperation of various boards in establishing vocational programs — Use of tax moneys.

(a) The board of directors of any school district or board of trustees of any state school, college, or university may cooperate with the Career Education and Workforce Development Board in the establishment of vocational schools, departments, or classes giving instruction in vocational-technical subjects, including secondary instruction in agricultural subjects, trades or industrial subjects, or family and consumer science subjects.

(b) Any board of directors or board of trustees may use any moneys raised by public taxation in the same manner as moneys for other school purposes are used for the maintenance and support of public schools or state schools, colleges, and universities.

History. Acts 1931, No. 169, § 189; 2516; Acts 1999, No. 1078, § 85; 1999, No. Pope's Dig., § 11631; A.S.A. 1947, § 80-1323, § 37.

6-51-216. State board authority to acquire and maintain facilities — Bonded indebtedness.

(a)(1) The Career Education and Workforce Development Board is authorized to purchase, construct, improve, equip, and maintain buildings, structures, parking facilities, dormitory facilities, or other facilities and the lands on which they are located at any state-supported technical institute or vocational-technical school.

(2) In order to obtain funds therefor, the board is authorized to issue revenue bonds secured by a pledge of income from those facilities and a pledge of other fees, rents, charges, tolls, and receipts of the school where the facilities are to be purchased, constructed, improved, equipped, or maintained as shall be determined by the board.

(b) All provisions of §§ 6-62-301 — 6-62-305 and §§ 6-62-307 — 6-62-312 regarding the execution of, the terms and conditions, maximum interest rates, conversion privileges, refunding rights, and other limitations, conditions, privileges, and rights with respect to bonds issued by boards of trustees of institutions of higher education shall, so far as they are appropriate, be equally applicable to bonds issued by the board under the authority granted in this section.

(c) Any indebtedness incurred by the board pursuant to the authority granted in this section shall be an obligation of the board and of the state-supported vocational-technical schools involved in such transaction, and under no circumstances shall the indebtedness be considered a debt for which the faith and credit of the State of Arkansas or any of its revenues are pledged.

History. Acts 1968 (1st Ex. Sess.), No. 1947, §§ 80-3311.1 — 80-3311.3; Acts 6, §§ 1-3; 1983, No. 484, §§ 1, 2; A.S.A. 1999, No. 1323, § 38.

6-51-217. Change of name to “technical institute”.

(a) The Career Education and Workforce Development Board shall establish a technical curriculum that must be offered by any vocational-technical school requesting permission to change its name pursuant to this section to “technical institute”. The board shall periodically review and revise, if necessary, this technical curriculum requirement.

(b) Any vocational-technical school which satisfies the curriculum requirements established by the board pursuant to subsection (a) of this section may, in accordance with procedures to be adopted by the board, seek approval from the board to change its name from “____ Vocational-Technical School” to “____ Technical Institute”. Upon approval by the board of any such application, the school shall be renamed and become a technical institute.

History. Acts 1989, No. 858, § 1.

SUBCHAPTER 3 — MULTIDISTRICT VOCATIONAL CENTERS

SECTION.

- 6-51-301. Proposed new centers.
- 6-51-302. Approval of center establishment.

SECTION.

- 6-51-303. Administration.
- 6-51-304. Center council.
- 6-51-305. Financing.

Preambles. Acts 1985, No. 788 contained a preamble which read: “Whereas, quality vocational and technical education is viewed as necessary to provide a trained work force to enhance the state’s economic industrial and employment development and to accommodate the varied skills required by business and industry; and

“Whereas, the need for equal access to equitably financed quality vocational education programs for high school students is mandated in the order issued by the court in the case of Alma School District, et al, v. Arkansas State Board of Education which has been upheld by the Arkansas Supreme Court; and

“Whereas, it is a priority of the state’s educational and political leadership to create an articulated, high-quality system of vocational and technical education so that all high school students have substantially equal access to programs in vocational centers located throughout the state to serve students of cooperating school districts;

“Now, therefore”

Effective Dates. Acts 1985, No. 788, § 5: Apr. 3, 1985. Emergency clause provided: “It is hereby found and determined by the General Assembly that vocational centers, as provided in the Act, are essential to: (a) provide equity and substantially equal access to quality vocational education programs; (b) provide job training to support economic, industrial, and employment development efforts; and (c) improve school programs and assist schools to meet accreditation standards. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

Acts 1989, No. 68, § 4: Feb. 17, 1989. Emergency clause provided: “It is hereby found and determined by the General Assembly that present law prohibits schools operating vocational centers from carrying forward any unexpended funds at the end of the school year; that such unexpended funds should be made available

for the purpose of operating summer programs; that this Act allows the schools to utilize those unexpended funds for the purpose of operating summer programs; and that this Act should go into effect immediately in order to authorize the expenditure of those excess funds for the upcoming summer programs. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1991, No. 229, § 5: Feb. 25, 1991. Emergency clause provided: "It is hereby found and determined by the General Assembly that present law prohibits schools operating vocational centers from carrying forward any unexpended funds at the end of the school year except for the purpose of conducting summer programs; that such unexpended funds should be made available for the purpose of operating summer programs and community based education centers; that this Act allows the schools to utilize those unexpended funds for the purpose of operating summer programs and community based education centers; and that this Act should go into effect immediately in order

to authorize the expenditure of those excess funds for the upcoming summer programs and operation of community based education centers. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 2001, No. 819, § 5: Mar. 19, 2001. Emergency clause provided: "It is found and determined by the General Assembly that that it is necessary for the welfare of the students enrolled in vocational centers to have uninterrupted financial support from the state and that institutional school districts need to carry forward funds from the 2000-2001 fiscal year for the purposes of operating vocational centers. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

6-51-301. Proposed new centers.

(a) Any request for approval of a proposed new center shall be submitted by the superintendent or chief executive officer of the school or institution proposed to function as the center and superintendents from the several schools to be served by a center or the board of an education service cooperative within whose boundaries the center is to be located.

(b) Such a request for a proposed new center must provide the necessary information and assurances according to the guidelines for approval of new centers established by the Career Education and Workforce Development Board.

History. Acts 1985, No. 788, § 3; A.S.A. 1947, § 80-2593.2; Acts 2001, No. 819, § 1.

6-51-302. Approval of center establishment.

(a) The State Board of Education shall review recommendations from the Career Education and Workforce Development Board to establish new vocational centers to serve high school students from several school districts in locations where services are needed to:

(1) Support economic, industrial, and employment development efforts;

(2) Provide equity and substantially equal access to quality vocational programs; and

(3) Improve school programs to assist schools in meeting accreditation standards.

(b) The State Board of Education shall approve only centers which utilize existing vocational education resources such as facilities, equipment, etc., except in those geographic areas in which comprehensive vocational offerings have not been developed and the State Board of Education determines that those resources must be developed to accomplish the above purposes.

(c) If a postsecondary vocational-technical school or two-year college which operates a secondary vocational center merges or consolidates with a public institution of higher education, the secondary vocational center may continue to be administered by the institution of higher education involved in the merger or consolidation.

(d) The provisions of this section are contingent on the appropriation of funding necessary to allow the State Board of Education to carry out the duties assigned to the State Board of Education under this section.

(e) All existing vocational centers may be reviewed by the State Board of Education at the discretion of the State Board of Education.

(f) The Office of Skills Development shall provide annually a report to the State Board of Education on the financial viability of vocational centers, enrollment, programs, and the success of students.

History. Acts 1985, No. 788, § 1; A.S.A. 1947, § 80-2593; Acts 1999, No. 1323, § 39; 2001, No. 819, § 2; 2021, No. 545, § 18.

Amendments. The 2021 amendment substituted “State Board of Education shall review recommendations from the Career Education and Workforce Develop-

ment Board to establish new” for “State Board of Career Education may approve the establishment of” in the introductory language of (a); substituted “State Board of Education” for “board” and “State Board of Education” for “state board” in (b); and added (d), (e), and (f).

6-51-303. Administration.

(a) The management, maintenance, and operation of a center shall be the responsibility of the local school or institution approved by the Career Education and Workforce Development Board to be the center.

(b) A center shall be administered in accordance with the guidelines and policies established by the board.

(c) A center physically detached from a local public school district or state-supported institution of higher education may use vocational center aid funding from the Division of Career and Technical Education

Public School Fund Account for the management, maintenance, and operation of the center.

History. Acts 1985, No. 788, § 3; A.S.A. 1947, § 80-2593.2; Acts 2001, No. 819, § 3; 2021, No. 507, § 1. **Amendments.** The 2021 amendment added (c).

6-51-304. Center council.

The superintendents of the schools served by the center shall function as the center council to assist with the coordination of scheduling and to advise the center's management board and administration on matters pertaining to the administration of the center.

History. Acts 1985, No. 788, § 3; A.S.A. 1947, § 80-2593.2.

6-51-305. Financing.

(a)(1) Vocational centers shall be financed by distributing vocational center aid from the Public School Fund according to rules promulgated by the Career Education and Workforce Development Board.

(2) Additionally, centers shall be eligible for any new vocational program start-up funds which become available from funds set aside for vocational start-up provided in the fund and for federal vocational education funds.

(b)(1) Any funds expended above the maximum funded amount per student as outlined in this section will be the responsibility of the institution or school approved to operate as a vocational center.

(2) Any funds received by an institution or school district operating a vocational center either from tuition or from state funds unexpended at the end of the school year shall be carried forward for the purpose of conducting summer programs and community-based education centers or supporting vocational center operations in succeeding years.

(c)(1) At each approved vocational center that is a postsecondary vocational-technical school, community college, or two-year college, only those programs that have been approved as designed exclusively for instruction of secondary students will qualify for state aid from the fund.

(2)(A) Vocational centers which may provide instruction to secondary students who have been admitted to ongoing programs designed for postsecondary or collegiate students will not qualify for vocational aid from the fund.

(B) Under these circumstances, however, a vocational center shall be eligible to receive the tuition described above even if a sending school uses its state aid to pay the tuition.

History. Acts 1985, No. 788, § 2; A.S.A. 1947, § 80-2593.1; Acts 1989, No. 68, § 1; 2001, No. 819, § 4; 2019, No. 179, § 3; 2019, No. 315, § 348. 1991, No. 229, § 1; 1999, No. 1318, § 4; **A.C.R.C. Notes.** Acts 2019, No. 179,

§ 1, provided: "Legislative intent. It is the intent of the General Assembly that:

"(1) Funding for secondary vocational area centers should reflect a number of fast-changing factors, such as regional and statewide workforce priorities, as well as demand on an industry-by-industry basis;

"(2) The definition of 'full time equivalent students' and the funding level tied to the number of full time equivalent students be aligned with a regulatory system that allows the Division of Career and Technical Education to monitor and adjust these terms in response to the changing business environment;

"(3) The current funding structure of three thousand two hundred fifty dollars (\$3,250) per full time equivalent student be discontinued in favor of establishing a tiered funding structure for distributing vocational center aid determined by the Division of Career and Technical Educa-

tion and approved by the Career Education and Workforce Development Board; and

"(4) A tiered funding structure for distributing vocational center aid determined by the Division of Career and Technical Education and approved by the Career Education and Workforce Development Board take into account the different funding needs and costs of individual programs of study or the workforce needs of the State of Arkansas."

Amendments. The 2019 amendment by No. 179, in (a)(1), substituted "by distributing" for "with a combination of training fees from schools sending students and", and "Career Education and Workforce Development Board" for "State Board of Career Education".

The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (a)(1).

SUBCHAPTER 4 — PLUMBING PROGRAM

[Repealed.]

SECTION.

6-51-401 — 6-51-404. [Repealed.]

6-51-401 — 6-51-404. [Repealed.]

A.C.R.C. Notes. The repeal of § 6-51-401 by Acts 2021, No. 545, § 19, superseded the technical correction amendments made to § 6-51-401 by Acts 2021, No. 467, §§ 6, 7.

Acts 2021, No. 467, § 13, provided: "CONSTRUCTION AND LEGISLATIVE INTENT. It is the intent of the General Assembly that:

"(1) The enactment and adoption of this act shall not expressly or impliedly repeal an act passed during the regular session of the Ninety-Third General Assembly;

"(2) To the extent that a conflict exists between an act of the regular session of the Ninety-Third General Assembly and this act:

"(A) The act of the regular session of the Ninety-Third General Assembly shall be treated as a subsequent act passed by the General Assembly for the purposes of:

"(i) Giving the act of the regular session of the Ninety-Third General Assembly its full force and effect; and

"(ii) Amending or repealing the appropriate parts of the Arkansas Code of 1987; and

"(B) Section 1-2-107 shall not apply; and

"(3) This act shall make only technical, not substantive, changes to the Arkansas Code of 1987."

Publisher's Notes. This subchapter, concerning the plumbing program, was repealed by Acts 2021, No. 545, § 19, effective July 28, 2021. The subchapter was derived from the following sources:

6-51-401. Acts 1975, No. 394, §§ 1, 3; A.S.A. 1947, §§ 80-2587, 80-2589; Acts 1999, No. 1323, § 40; 2019, No. 315, § 349; 2019, No. 910, § 1861; 2021, No. 467, §§ 6, 7.

6-51-402. Acts 1975, No. 394, §§ 2, 3; A.S.A. 1947, §§ 80-2588, 80-2589.

6-51-403. Acts 1975, No. 394, § 2; A.S.A. 1947, § 80-2588.

6-51-404. Acts 1975, No. 394, § 2; A.S.A. 1947, § 80-2588.

SUBCHAPTER 5 — HOUSING CONSTRUCTION PROGRAM**[Repealed.]****SECTION.****6-51-501 — 6-51-510. [Repealed.]****6-51-501 — 6-51-510. [Repealed.]**

A.C.R.C. Notes. The repeal of this subchapter by Acts 2019, No. 335, § 1, superseded the amendment of § 6-51-501 by Acts 2019, No. 910, § 1862. The amendment by Acts 2019, No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education” in (c)(1).

The repeal of this subchapter by Acts 2019, No. 335, § 1, superseded the amendment of § 6-51-502 by Acts 2019, No. 910, § 1863. The amendment by Acts 2019, No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education” in (b).

The repeal of this subchapter by Acts 2019, No. 335, § 1, superseded the amendment of § 6-51-503 by Acts 2019, No. 910, § 1864. The amendment by Acts 2019, No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education”.

The repeal of this subchapter by Acts 2019, No. 335, § 1, superseded the amendment of § 6-51-504 by Acts 2019, No. 910, § 1865. The amendment by Acts 2019, No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education” in (a).

The repeal of this subchapter by Acts 2019, No. 335, § 1, superseded the amendment of § 6-51-505 by Acts 2019, No. 315, § 350. The amendment by Acts 2019, No. 315 deleted “and regulations” following “law” in the section heading; and substituted “rules” for “regulations” in (1) and (2).

The repeal of this subchapter by Acts 2019, No. 335, § 1, superseded the amendment of § 6-51-508 by Acts 2019, No. 910, § 1866. The amendment by Acts 2019, No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education” in (a); and substituted “division” for “department” in (b)(1)(A) and (b)(1)(B).

The repeal of this subchapter by Acts 2019, No. 335, § 1, superseded the amend-

ment of § 6-51-509 by Acts 2019, No. 910, § 1867. The amendment by Acts 2019, No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education”.

The repeal of this subchapter by Acts 2019, No. 335, § 1, superseded the amendment of § 6-51-510 by Acts 2019, No. 910, § 1868. The amendment by Acts 2019, No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education”.

Publisher’s Notes. This subchapter, concerning the housing construction program, was repealed by Acts 2019, No. 335, § 1, effective July 24, 2019. The subchapter was derived from the following sources:

6-51-501. Acts 1977, No. 678, § 1; A.S.A. 1947, § 80-2590; Acts 1997, No. 233, § 1; 2007, No. 541, § 1; 2019, No. 910, § 1862.

6-51-502. Acts 1977, No. 678, § 2; A.S.A. 1947, § 80-2590.1; Acts 1997, No. 233, § 2; 2007, No. 541, § 2; 2019, No. 910, § 1863.

6-51-503. Acts 1977, No. 678, § 3; A.S.A. 1947, § 80-2590.2; Acts 1997, No. 233, § 3; 2007, No. 541, § 3; 2019, No. 910, § 1864.

6-51-504. Acts 1977, No. 678, § 4; A.S.A. 1947, § 80-2590.3; Acts 1997, No. 233, § 4; 2007, No. 541, § 4; 2019, No. 910, § 1865.

6-51-505. Acts 1977, No. 678, § 5; A.S.A. 1947, § 80-2590.4; Acts 1997, No. 233, § 5; 2007, No. 541, § 5; 2019, No. 315, § 350.

6-51-506. Acts 1977, No. 678, § 6; A.S.A. 1947, § 80-2590.5; Acts 1997, No. 233, § 6; 2007, No. 541, § 6.

6-51-507. Acts 1977, No. 678, § 7; A.S.A. 1947, § 80-2590.6; Acts 1997, No. 233, § 7; 2007, No. 541, § 7.

6-51-508. Acts 1977, No. 678, § 8; A.S.A. 1947, § 80-2590.7; Acts 1997, No. 233, § 8; 2007, No. 541, § 8; 2019, No. 910, § 1866.

6-51-509. Acts 1977, No. 678, § 9; A.S.A. 1947, § 80-2590.8; Acts 1997, No. 233, § 9; 2019, No. 910, § 1867.

6-51-510. Acts 1977, No. 678, § 11; A.S.A. 1947, § 80-2590.10; Acts 2019, No. 910, § 1868.

SUBCHAPTER 6 — PRIVATE RESIDENT AND CORRESPONDENCE SCHOOLS

SECTION.

- 6-51-601. Legislative intent.
- 6-51-602. Definitions.
- 6-51-603. Exemptions.
- 6-51-604. Notice of possible violations — Responses — Injunctions.
- 6-51-605. State Board of Private Career Education.
- 6-51-606. School license generally.
- 6-51-607. Private Career School Student Protection Trust Fund.
- 6-51-608. Extension course sites and satellite schools — Additional school license.
- 6-51-609. Admissions representative's license — Generally.
- 6-51-610. Fees.
- 6-51-611. License renewal.
- 6-51-612. Penalty for operating school without license.
- 6-51-613. Contracts and promissory notes of unlicensed schools void — Recovery of tuition.

SECTION.

- 6-51-614. Denial, probation, or revocation of school license — Review.
- 6-51-615. Denial or suspension of admissions representative's license — Review — Penalty.
- 6-51-616. Student grievance procedure.
- 6-51-617. State Board of Private Career Education — Dispute resolution.
- 6-51-618. Fines.
- 6-51-619. Subpoenas and subpoenas duces tecum.
- 6-51-620. Bond.
- 6-51-621. Construction of subchapter.
- 6-51-622. Noncommercial driver training instruction.
- 6-51-623. Defensive driving instruction.
- 6-51-624. Applicability.

Publisher's Notes. Acts 1989, No. 906, § 3, provided that: "Nothing in this act shall be construed to effect the responsibilities of the State Board of Higher Education as defined in § 6-61-301."

Cross References. Licenses and permits, removal of disqualification for criminal offenses, § 17-1-103.

Effective Dates. Acts 1983, No. 770, § 16: June 30, 1983. Emergency clause provided: "It is hereby found and determined by the Seventy-Fourth General Assembly that minimum standards must be provided for the operation of all private vocational schools and related schools offering courses to residents of the State of Arkansas; that the General Assembly is aware of the fact that the unemployment situation will increase the need for training by the private sector; that there will continue to be a need to provide adequate protection and safeguards for reputable school operators and the public; that such provision should be enacted immediately; and that this Act would so provide. Therefore, an emergency is hereby declared to

exist and this Act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect on June 30, 1983."

Acts 1989, No. 906, §§ 2, 6: Sept. 1, 1989. Emergency clause provided: "It is hereby found and determined by the Seventy-Seventh General Assembly that minimum standards must be provided for the operation of all private career schools and related schools offering courses to residents of the State of Arkansas; that there will continue to be a need to provide adequate protection and safeguards for reputable private career school operators and the public; that such provision should be enacted immediately; and that this Act would so provide. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health, and safety shall be in full force and effect from its passage and approval. Approved Mar. 23, 1989."

Acts 1995, No. 367, § 5: Feb. 20, 1995. Emergency clause provided: "It is hereby

found and determined by the General Assembly that when institutions subject to the authority of the Private Career Education Board become insolvent or otherwise cease to operate, the Private Career Education Board incurs considerable expense in acquiring, storing and preserving student records for the purpose of paying claims filed by students as authorized by law; that this act is designed to provide a method to reimburse the Private Career Education Fund for such expenses and should be given effect immediately in the event any such Private Career Education facilities fail in the near future. Therefore an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 1213, § 6: Apr. 11, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that minimum standards must be provided for the operation of all schools offering programs of study to residents of the State of Arkansas; that there will continue to be a need to provide adequate protection and safeguards for reputable private career school operators and the public; that such provision should be enacted immediately; and that this act would so provide. Therefore an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become ef-

fective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2017, No. 565, § 29: Mar. 22, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act will create more efficient regulation of private career education; and that this act is immediately necessary to provide Arkansas citizens seeking private career education the consumer protection services they need. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-51-601. Legislative intent.

(a) The General Assembly is aware of the fact that:

(1) Many private career schools offering resident or correspondence programs in the State of Arkansas have contributed extensively to the well-being of the individuals and the business and industrial establishments which have benefited from that training; and

(2) There is a need for protection of the consumer and the ethical private career school operator.

(b) The General Assembly determines that the establishment of reasonable standards and licensing requirements for resident or correspondence schools, their program offerings, and their instructors and admissions representatives in the manner provided in this subchapter is essential in the public interest and in furtherance of the purposes stated above.

History. Acts 1983, No. 770, § 1; A.S.A. 1947, § 80-4301; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1.

6-51-602. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Admissions representative" means a person who executes an enrollment agreement and who receives compensation for the primary duties of encouraging prospective students to enroll for training in a program of study offered by a school covered under the provisions of this subchapter;

(2) "Board" means the State Board of Private Career Education;

(3) "Combination school" means any school in which programs of study are conducted by both distance education and resident training;

(4) "Director" means the authorized representative of the State Board of Private Career Education for the purpose of administering the provisions of this subchapter;

(5) "Distance education school" means any school in which all programs of study are conducted by distance education;

(6) "Extension course site" means a location away from the school where a course or courses are conducted one (1) or more times during the licensure period;

(7) "Program of study" means an organized unit of courses or an individual course in which instruction is offered;

(8) "Resident school" means any school in which all programs of study are conducted in resident classrooms or held in public meeting facilities;

(9) "Satellite school" means a location within the State of Arkansas away from the school where programs of study are offered on a regular continuing basis by Arkansas schools;

(10)(A) "School" means any person, firm, partnership, association, corporation, or other form of business organization seeking to do

business or offering in the State of Arkansas resident or correspondence training that leads to or enhances occupational qualifications.

(B) "School" also means any firm, partnership, association, corporation, or other form of business organization that offers instruction in airframe or power plant mechanics.

(C) "School" also means any firm, partnership, association, corporation, or other form of business organization that offers training as preparation for passing exams that may lead to employment.

(D) "School" also means any firm, partnership, association, corporation, or other form of business organization that offers driver education training excluding those courses taught motor vehicle violators pursuant to court order.

(E) "School" does not include:

(i) A program of instruction in yoga or in yoga-teacher training; or

(ii) An institution that is subject to the jurisdiction of the Arkansas Higher Education Coordinating Board under § 6-61-301; and

(11) "Student" or "enrollee" means a person who is seeking to enroll, has been enrolled, is sought for enrollment, or is seeking training or instruction in a school as defined in this section.

History. Acts 1983, No. 770, § 2; A.S.A. 1947, § 80-4302; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1; 2003, No. 1781, §§ 1, 2; 2009, No. 1478, § 1; 2015, No. 45, § 1; 2021, No. 252, § 1.

Amendments. The 2021 amendment deleted former (7) and redesignated the remaining subdivisions accordingly; deleted "whether or not the institution is subject to the jurisdiction of the Arkansas

Higher Education Coordinating Board under § 6-61-301" in (10)(A) at the end; added (10)(E)(ii) and the (10)(E)(i) designation and substituted "include" for "mean" in the introductory language of (10)(E); in (11), deleted "'trainee', or 'pupil'" preceding "means" and substituted "section" for "subchapter"; and made stylistic changes.

6-51-603. Exemptions.

The following are exempt from licensure under this subchapter:

(1) Private institutions exclusively offering instruction at any or all levels from preschool through twelfth grade;

(2) Schools established by laws of Arkansas, governed by Arkansas boards, and permitted to operate for the sole purpose of providing specific training normally required to qualify persons for occupational licensure by state boards or commissions, which determine education and other standards for licensure and operation of such schools;

(3) State colleges and universities coordinated by the Arkansas Higher Education Coordinating Board;

(4) Programs of study offered by institutions or individuals for personal improvement, whether avocational or recreational, if designated through media or other sources as not for the purpose of enhancing an occupational objective;

(5) Schools operated solely to provide programs of study in theology, divinity, religious education, and ministerial training;

(6) A training program offered or sponsored by an employer for training and preparation of its own employees and for which no tuition fee is charged the employee;

(7) A program of study sponsored by a recognized trade, business, or professional organization for instruction of the members of the organization with a closed membership and for which no fee is charged the member;

(8) A school or educational institution supported by state or local government taxation;

(9) Flight instructors and flight instruction schools licensed under appropriate Federal Aviation Administration regulations and offering only training for a private pilot's license;

(10) Schools covered by § 6-61-301(a)(3) and exempt from § 6-61-101 et seq.;

(11) Training offered by other Arkansas state agencies, boards, or commissions;

(12)(A) Training offered on military bases where a majority of the students enrolled are active duty personnel or their adult family members, United States Department of Defense civilian employees or their adult family members, members of the United States Armed Forces reserve components, and retirees.

(B) These organizations shall remain exempt from the requirement for licensure if required to move off the military installation for a period of not more than ninety (90) days because of a change in security level which would not allow civilian students on the installation.

(C) The State Board of Private Career Education shall have the authority to review any situations that extend past the ninety-day period and determine whether the exemption status should remain for the school;

(13) Certified nurse aide or certified nursing assistant training programs:

(A) Whose underlying majority ownership has ownership of five (5) or more nursing facilities licensed by the Office of Long-Term Care; and

(B) That are under the regulatory oversight of the office; and

(14) Schools located outside the state that:

(A) Offer education or training outside the state; and

(B) Do not participate in distance education.

History. Acts 1983, No. 770, §§ 1, 2; A.S.A. 1947, §§ 80-4301, 80-4302; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1; 2003, No. 1781, § 3; 2009, No. 1478, § 2; 2017, No. 755, § 1; 2019, No. 755, § 1.

Amendments. The 2017 amendment added (13).
The 2019 amendment added (14).

CASE NOTES

Cited: *Burrow v. State*, 282 Ark. 479, 669 S.W.2d 441 (1984).

6-51-604. Notice of possible violations — Responses — Injunctions.

(a) If the Division of Higher Education has probable cause to believe that a person, agent, group, or entity has committed any acts that would be in violation of this subchapter such as fraud, misrepresentation, or unethical practices, the division shall first give notice in writing by certified mail or in person to the agency or entity affected.

(b) The person, agent, or entity will have ten (10) days in which to respond to the notice of violation, unless the division deems an emergency exists, in which case the entity will have up to twenty-four (24) hours in which to respond.

(c)(1) If action on the part of the person, agent, or entity in response to a notice is to seek to eliminate the violation, a further extension of time may be granted by the division.

(2) Otherwise, the division may order a cease and desist of such acts after a formal hearing, or the division shall have the duty to request the Attorney General or district prosecuting attorney in the county where the offense was committed to seek in a court of competent jurisdiction an injunction restraining the commission of such acts.

History. Acts 1983, No. 770, § 13; A.S.A. 1947, § 80-4313; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1; 2017, No. 565, § 4; 2019, No. 910, § 1869; 2021, No. 252, § 2.

Amendments. The 2017 amendment, in (a), substituted "In consultation with" for "Whenever", inserted "its", inserted "if the Department of Higher Education", and substituted "department" for "board or director acting for the board"; substituted "department" for "board or the director acting for the board" in (b); substituted

"department" for "director acting for the board" in (c)(1); and, in (c)(2), substituted "department" for "board" and "board or the director".

The 2019 amendment substituted "Division of Higher Education" for "Department of Higher Education" in (a); and substituted "division" for "department" throughout the section.

The 2021 amendment deleted "In consultation with the State Board of Private Career Education or its director acting for the board" at the beginning of (a).

6-51-605. State Board of Private Career Education.

(a)(1)(A) The Governor shall appoint a State Board of Private Career Education of seven (7) members who shall serve for terms of seven (7) years.

(B) The Governor shall make appointments or reappointments to the board to provide membership of three (3) persons associated with schools and four (4) persons from the general public.

(2) The Director of the Division of Higher Education and the Director of the Division of Career and Technical Education or their designees shall serve as nonvoting, ex officio members of the board.

(b)(1) The board may elect the necessary officers, acting by and through the Director of the Division of Higher Education.

(2) The Division of Higher Education shall have the sole authority to:

(A) Approve all schools offering programs of study leading to or enhancing an occupational objective;

(B) Administer and enforce this subchapter; and

(C) Issue licenses to schools that have met the standards set forth for the purposes of this subchapter by the Division of Higher Education, including without limitation programs of study, adequate facilities, financial stability, qualified personnel, and legitimate operating practices.

(c) Upon approval by the Division of Higher Education, any such school may issue certificates or diplomas.

(d) The Division of Higher Education shall:

(1) Formulate the criteria and the standards evolved for the approval of such licensed schools;

(2) Provide for adequate investigation of all schools applying for a license;

(3) Issue licenses to those applicants meeting the standards fixed by the Division of Higher Education; and

(4) Maintain a list of schools approved under the provisions of this subchapter.

(e) The Division of Higher Education shall formulate the standards evolved under this subchapter for the approval of admissions representatives of such licensed schools and issue licenses to those applicants meeting the standards fixed by the Division of Higher Education.

(f) In consultation with the board, the Division of Higher Education shall promulgate standards and rules to be prescribed for the administration of this subchapter and the management and operation of the schools and admissions representatives, subject to the provisions of this subchapter.

(g) The Division of Higher Education shall participate in the hearings provided to schools and admissions representatives in cases of revocation or denial of licensure.

(h) Official meetings of the board may be called by the Chair of the State Board of Private Career Education as necessary, but meetings shall be held at least four (4) times a year.

(i) A majority of favorable votes by the board members at an official meeting is required for adoption of a recommendation.

(j) Board members may be reimbursed for expenses in accordance with § 25-16-901 and stipends according to § 25-16-903.

(k) The board may adopt and use a seal, which may be used for the authentication of the recommendations of the board.

(l)(1) The Division of Higher Education shall annually require background investigations for all partners or shareholders with ten percent (10%) or more ownership interest in a school when the school seeks an original license.

(2) The Division of Higher Education may establish a schedule for periodic background checks for partners or shareholders with ten

percent (10%) or more ownership interest in a school when seeking renewal of a school license.

(m)(1) The partners or shareholders shall apply to the Identification Bureau of the Division of Arkansas State Police for a state and national criminal background check to be conducted by the Federal Bureau of Investigation.

(2) The check shall conform to the applicable federal standards and shall include the taking of fingerprints.

(3) The applicant shall sign a release of information to the board and shall be responsible to the Division of Arkansas State Police for the payment of any fee associated with the criminal background check.

(4) Upon completion of the criminal background check, the Identification Bureau of the Division of Arkansas State Police shall forward to the Division of Higher Education all information obtained concerning the person in the commission of any offense listed in § 6-51-606(g)(3).

(5)(A) The Division of Higher Education may issue a nonrenewable temporary license pending the results of the criminal background check.

(B) The license shall be valid for no more than six (6) months.

(C) Upon receipt of information from the Identification Bureau of the Division of Arkansas State Police that only one (1) of the partners or shareholders of the school holding the license has been convicted of any offense listed in § 6-51-606(g)(3), the Division of Higher Education shall revoke the license.

(n)(1) The provisions of § 6-51-606(g) may be waived by the Division of Higher Education upon the request of:

(A) An affected applicant for licensure; or

(B) The partners or shareholders of a school holding a license subject to revocation.

(2) Circumstances for which a waiver may be granted shall include, but not be limited to, the following:

(A) The age at which the crime was committed;

(B) The circumstances surrounding the crime;

(C) The length of time since the crime;

(D) Subsequent work history;

(E) Employment references;

(F) Character references; and

(G) Other evidence demonstrating that the applicant does not pose a threat.

(o)(1) Any information received by the Division of Higher Education from the Identification Bureau of the Division of Arkansas State Police under this section shall not be available for examination except by:

(A) The affected applicant for licensure or his or her authorized representative; or

(B) The person whose license is subject to revocation or his or her authorized representative.

(2) No record, file, or document shall be removed from the custody of the Division of Arkansas State Police.

(p) Any information made available to the affected applicant for licensure or the person whose license is subject to revocation shall be information pertaining to that person only.

(q) Rights of privilege and confidentiality established in this section shall not extend to any document created for purposes other than the background check required by this section.

(r) In consultation with the board, the Division of Higher Education shall adopt the necessary rules to fully implement the provisions of this section.

History. Acts 1983, No. 770, § 3; A.S.A. 1947, § 80-4303; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1; 1997, No. 250, § 24; 2003, No. 1781, §§ 4-6; 2017, No. 565, § 5; 2019, No. 755, § 2; 2019, No. 910, § 1870; 2021, No. 252, § 3.

A.C.R.C. Notes. Acts 2017, No. 565, § 1, provided: "Transfer of the State Board of Private Career Education to the Department of Higher Education.

"(a)(1) The State Board of Private Career Education is transferred to the Department of Higher Education by a type 2 transfer under § 25-2-105.

"(2) For the purposes of this act, the Department of Higher Education shall be considered a principal department established by Acts 1971, No. 38.

"(b) All authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, and other funds, including the functions of budgeting or purchasing of the State Board of Private Career Education are transferred to the Department of Higher Education, except as specified by this act.

"(c) All powers, duties, and functions, including rulemaking, regulation, and licensing, promulgation of rules, rates, and standards, and the rendering of findings, orders, and adjudications of the State Board of Private Career Education are transferred to the Director of the Department of Higher Education.

"(d) The employee and designees of the State Board of Private Career Education shall continue to be selected in the manner and serve for the terms provided by the statutes applicable to the State Plant Board except as specified in this act.

"(e) The Arkansas Code Revision Commission shall make appropriate name

changes in the Arkansas Code to implement this act."

Amendments. The 2017 amendment substituted "Department of Higher Education" for "board" throughout the section; substituted "board" for "State Board of Private Career Education" in (a)(2); rewrote (b); substituted "Department of Higher Education" for "board, acting by and through the director" in the introductory language of (d) and in (e); substituted "under this subchapter" for "thereunder" in (e); substituted "In consultation with the board, the Department of Higher Education shall promulgate standards and rules" for "The board shall promulgate standards, rules, and regulations" in (f); inserted "to" in (g); substituted "recommendations" for "acts" in the introductory language of (k); deleted the former (l)(1) designation and (l)(2); substituted "under" for "pursuant to" in the introductory language of (p)(1); and substituted "In consultation with the board, the Department of Higher Education shall adopt the necessary rules" for "The board shall adopt the necessary rules and regulations" in (s).

The 2019 amendment by No. 755 repealed former (l).

The 2019 amendment by No. 910 substituted "Division of Higher Education" for "Department of Higher Education" throughout the section; substituted "Director of the Division of Career and Technical Education" for "Director of the Department of Career Education" in (a)(2); and substituted "Division of Arkansas State Police" for "Department of Arkansas State Police" throughout (n) and (p) [now (m) and (o)].

The 2021 amendment added the (b)(1) and (2) designations; redesignated former (b)(1)-(3) as (b)(2)(A)-(C); and deleted "In consultation with the board" in the introductory language of (b)(2).

CASE NOTES

Accreditation of Schools.

Real Estate Commission could not regulate business schools training brokers since State Board of Education had sole authority to approve all schools offering

courses below college level leading to an occupational objective. *Gelly v. West*, 253 Ark. 373, 486 S.W.2d 31 (1972) (decision under prior law).

6-51-606. School license generally.

(a) No persons shall operate, conduct, maintain, or offer to operate in this state a school as defined in this subchapter, or solicit the enrollment of students residing in the state, unless a license is first secured from the Division of Higher Education issued in accordance with the provisions of this subchapter and the rules promulgated by the division in consultation with the State Board of Private Career Education.

(b)(1) Application for a license shall be filed in the manner and upon the forms prescribed and furnished by the division for that purpose.

(2) The application shall be signed by the applicant and properly verified and shall contain such information as may apply to the type and kind of school, satellite school, or extension course site for which a license is sought.

(c)(1) A license issued shall be restricted to the programs of study specifically indicated in the application for a license.

(2) The holder of a license shall present a supplementary application for approval of additional programs of study.

(d) The license shall remain the property of the State of Arkansas and shall be returned to the division upon cause.

(e) After a license is issued to any school by the division on the basis of its application, it shall be the responsibility of the school to notify immediately the division of any changes in the ownership, administration, location, faculty, or programs of study on the forms and in the manner prescribed by the division.

(f) In the event of the sale of such school, the license granted to the original owner or operators shall not be transferable to the new ownership or operators, but application for a new license must be made and approved before the new ownership's taking over operation of the school.

(g) The division shall have the power to deny issuing a new or renewal license, to revoke an existing license, or to place a licensee on probation, if in its discretion it determines that:

(1) The licensee has violated any of the provisions of this subchapter or any of the rules of the division;

(2) The applicant or licensee has knowingly presented to the division incomplete or misleading information relating to licensure;

(3) The applicant or licensee has pleaded guilty, entered a plea of nolo contendere, or has been found guilty in a criminal proceeding, regardless of whether or not the adjudication of guilt or sentence is withheld, deferred, or suspended by a court of this state, another state, or the United States Government, of:

(A) Any felony; or

(B) Any act involving moral turpitude, gross immorality, or which is related to the qualifications, functions, and duties of a licensee;

(4) The applicant or licensee has intentionally failed or refused to permit the division or its representatives to inspect the school or classes or has intentionally failed or refused to make available to the division, at any time when requested to do so, full information pertaining to any or all items of information contained in an application for license or pertaining to the operation of the school;

(5) The applicant has failed or refused to submit to the division an application for license or renewal in the manner and on the forms prescribed;

(6) A licensed admissions representative has failed or refused to display or produce his or her license when requested to do so by prospective students or designated officials of the division;

(7) The applicant or licensee has failed to provide or maintain premises, equipment, materials, supplies, or conditions in accordance with minimum standards as established by rules;

(8) The licensee has been found by the division or a court of law to have perpetrated fraud or deceit in advertising of the school or programs of study or in presenting to prospective students information relating to the school, programs of study, employment opportunities, or opportunities for enrollment in institutions of higher education;

(9) The licensee has in its employ admissions representatives who have not been licensed but are actively engaged in the practice of attempting to enroll students;

(10) The licensee has failed to provide and maintain standards of instruction or qualified administrative, supervisory, or instructional staff as established by rules;

(11) The applicant or licensee is unable to provide and maintain financial resources in sufficient amount to equip and maintain the school or classes;

(12) The licensee has moved the school into new premises or facilities without first notifying the division;

(13) The licensee has offered training or instruction in programs of study which have not been approved and authorized in accordance with rules;

(14) A licensed admissions representative has solicited prospective students to enroll in a school which has not been licensed by the division or which is not listed on his or her license;

(15) There was a change in the ownership of the school without proper notification to and approval from the division;

(16) The licensee has failed to notify the division or to provide written documentation as to the cause that the license of a school has been suspended or revoked or the school has been placed on probation or a show cause issued in another state or by another regulatory agency;

(17) The licensee has failed to notify the division of legal actions initiated by or against the school; or

(18) The licensee fails to make tuition refunds to the students or their lenders in compliance with current rules.

(h) The division shall have the power to revoke a license if in its discretion it determines that:

(1) The licensee has failed to cure a deficiency leading to a license probation within the time as may be reasonably prescribed by the division;

(2) The licensee while on probation has been found by the division to have incurred an additional infraction of this subchapter; or

(3) The licensee has closed a school without first having completed the training of all students currently enrolled or having made tuition refunds to students or their lenders.

(i) The division may impose sanctions under § 25-15-217.

(j)(1) Unless directed to do so by court order, the division shall not, for a period of five (5) years following revocation, reinstate the license of a school or allow an owner of any such school to seek licensure of another school.

(2) Upon expiration of licensure status, the school must apply for an original license in accordance with the provisions of this subchapter.

(k)(1) Upon closure of a school located in Arkansas and licensed under any provision of this subchapter, whether for license revocation or any other cause, all student financial aid records for the previous three (3) years and all student transcripts regardless of age must be delivered to the division.

(2) Delivered records shall be arranged in alphabetical order and stored in boxes or in data format at the discretion of the division.

(3) The division shall be responsible for the proper security, storage, and maintenance of all such records.

History. Acts 1983, No. 770, § 5; A.S.A. 1947, § 80-4305; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1; 2003, No. 1781, §§ 7, 8; 2017, No. 565, § 6; 2019, No. 910, §§ 1871-1876; 2021, No. 252, § 4.

Amendments. The 2017 amendment substituted “department” for “board” and “director” throughout the section; in (a), substituted “Department of Higher Education” for “State Board of Private Career Education”, deleted “and regulations” following “rules”, and substituted “department in consultation with the State Board of Private Career Education” for “board”; substituted “A” for “Any” in (c)(1); redesignated former (e) as (e)(1) and (2); substi-

tuted “department” for “board, acting by and through the director” in (e)(1); inserted “under subdivision (e)(1) of this section” in (e)(2); substituted “before” for “prior to” in (g); deleted “and regulations” following “rules” in (h)(1), (7), (10), and (13); substituted “rules” for “regulations” in (h)(18); and substituted “under” for “pursuant to” in (j).

The 2019 amendment substituted “Division of Higher Education” for “Department of Higher Education” in (a); and substituted “division” for “department” throughout the section.

The 2021 amendment repealed former (e).

6-51-607. Private Career School Student Protection Trust Fund.

(a)(1) Each school licensed under this subchapter shall pay annually a fee to be set by the Division of Higher Education in consultation with the State Board of Private Career Education.

(2) The fee shall be set at the amount the division deems necessary to establish the Private Career School Student Protection Trust Fund and to maintain the Private Career School Student Protection Trust Fund as necessary.

(3) For a renewing school, the fee shall be based on the enrollment of Arkansas residents in the preceding twelve (12) months of July 1 through June 30.

(4)(A) For an original license, the fee shall be a percentage as determined by the division of the sum of the tuitions for each program offered.

(B) Additionally, during the first twelve (12) months of licensure, the same percentage shall be paid to the Private Career School Student Protection Trust Fund on additional new programs of study.

(b) The fee will be deposited into a trust fund in the State Treasury to be called the "Private Career School Student Protection Trust Fund".

(c)(1) Regardless of the balance in the Private Career School Student Protection Trust Fund, a fee, as set by the division, will be assessed newly licensed schools.

(2) Newly licensed schools shall pay for a number of years equal to the number of years paid by schools licensed on September 1, 1989.

(d)(1) The assets of the Private Career School Student Protection Trust Fund may be invested and reinvested as the division may determine.

(2) Any interest income or dividends from the investment of the Private Career School Student Protection Trust Fund shall be credited to the Private Career School Student Protection Trust Fund.

(e) The division may use any amounts in the Private Career School Student Protection Trust Fund, including accumulated interest, to:

(1) Pay claims filed by students not to exceed a total of one hundred thousand dollars (\$100,000) for all students of the school when a school becomes insolvent or ceases to operate without offering a complete program of study;

(2) Pay expenses incurred by a school not to exceed a total of one hundred thousand dollars (\$100,000) that are directly related to educating a student placed in the school under this subchapter, including the applicable tuition for the period of time for which the student has paid tuition;

(3) Pay expenses directly associated with the storage and maintenance of academic and financial aid records of those students adversely affected by school closings; and

(4)(A) Pay administrative costs due to school closings, including without limitation:

(i) Travel expenses; and

(ii) The employment of temporary personnel to assist with transport and organization of student records.

(B) Provided further, that reimbursement for the expenses incurred in subdivision (e)(4)(A) of this section shall not exceed five thousand dollars (\$5,000) per school closing.

(f) Any amounts in the Private Career School Student Protection Trust Fund above two hundred thousand dollars (\$200,000) may be used with the approval of the Director of the Division of Higher Education to:

(1) Fund educational seminars and other forms of educational projects for the use and benefit of licensed school administrators, faculty, staff, or admissions representatives;

(2) Provide for travel expenses and registration fees to send staff or board members to accrediting meetings, seminars, or meetings relating to the school sector;

(3) Provide staff assistance; or

(4)(A) Fund student scholarships as provided for by the Higher Education Grants Fund Account.

(B) Priority of funding scholarships under subdivision (f)(4)(A) of this section shall be given to the funding of veterinary medicine student loans at the College of Veterinary Medicine of Mississippi State University.

(g)(1) If a school closes, the division shall attempt to place each student of the school in another school.

(2) If the student cannot be placed in another school, the student's tuition for which education has not been received may be refunded on a prorated basis in the manner prescribed by the division.

(3) If another school assumes responsibility for the closed school's students with no significant changes in the quality of training, a student is not entitled to a refund under this section.

(4) Attorney's fees, court costs, or damages may not be paid from the Private Career School Student Protection Trust Fund.

History. Acts 1989, No. 906, § 1; 1995, No. 367, § 1; 1995, No. 1213, § 1; 2003, No. 1781, §§ 9, 10; 2009, No. 1478, § 3; 2017, No. 565, § 7; 2019, No. 755, §§ 3, 4; 2019, No. 910, §§ 1877-1882.

Publisher's Notes. Former § 6-51-607 was renumbered as § 6-51-606 by Acts 1989, No. 906.

Amendments. The 2017 amendment substituted "department" for "board" and "director" throughout the section; inserted "Department of Higher Education in consultation with the" in (a)(1); substituted "the amount the" for "such amount as the" in (a)(2); substituted "The department" for "With the approval of the board, the Director of the State Board of Private Career Education" in the introductory language of (e); and substituted "Director of the Department of Higher Education" for "board" in the introductory language of (f).

The 2019 amendment by No. 755 deleted former (c)(1) and redesignated

(c)(2)(A) as (c)(1) and (c)(2)(B) as (c)(2); substituted "Regardless" for "However, regardless" in (c)(1); substituted "two hundred thousand dollars (\$200,000)" for "the required five hundred thousand dollars (\$500,000)" in the introductory language of (f); and added (f)(4).

The 2019 amendment by No. 910 substituted "Division of Higher Education" for "Department of Higher Education" in (a)(1); substituted "division" for "department" throughout the section; substituted "fund" for "Private Career School Student Protection Trust Fund" following "maintain the" in (a)(2), and in (c)(2)(A) [now (c)(1)], (d)(1), (e), and (f); and substituted "Director of the Division of Higher Education" for "Director of the Department of Higher Education" in (f).

Cross References. Private Career Education Fund, § 19-6-462.

6-51-608. Extension course sites and satellite schools — Additional school license.

(a)(1) Any school licensed under this subchapter shall make application to the Division of Higher Education to offer a course or courses at an extension course site or satellite school.

(2) The school shall submit a separate additional license fee with the licensure application for each extension course site or satellite school.

(3) The courses, facilities, faculty, and all other operations of the extension course site or satellite school must meet minimum standards as established by rules.

(b) The school will be assessed a fee as set by the division to be deposited into the Private Career School Student Protection Trust Fund.

History. Acts 1983, No. 770, § 5; A.S.A. 1947, § 80-4305; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1; 2017, No. 565, § 8; 2019, No. 910, §§ 1883, 1884.

Amendments. The 2017 amendment substituted “Department of Higher Education” for “State Board of Private Career Education” in (a)(1); deleted “and regula-

tions” following “rules” at the end of (a)(3); and substituted “department” for “board” in (b).

The 2019 amendment substituted “Division of Higher Education” for “Department of Higher Education” in (a)(1); and substituted “division” for “department” in (b).

6-51-609. Admissions representative’s license — Generally.

(a)(1) An admissions representative that solicits or sells a program of study for consideration or remuneration shall first obtain a license from the Division of Higher Education to solicit or sell the program of study.

(2) However, subdivision (a)(1) of this section shall not apply to an out-of-state school that provides educational training outside the state.

(b)(1) The license shall be on a form of such size as to be displayed for examination by each prospective student contacted by the admissions representative for enrollment or recruitment purposes.

(2) The license shall bear a recent photograph of the admissions representative, the admissions representative’s name, the name and address of the licensed school to be represented, and the valid period of the admissions representative’s license which will indicate the expiration date.

(c)(1) An admissions representative’s license shall be automatically cancelled when the license of the school represented by the admissions representative is suspended or revoked for any reason, or the school closes.

(2)(A) The license shall be endorsed by the Director of the Division of Higher Education.

(B) The license shall remain the property of the State of Arkansas and shall be returned to the Division of Higher Education upon cause.

(d) An applicant for an admissions representative’s license must:

(1) Be at least eighteen (18) years of age;

(2) Be a high school graduate or hold a graduate equivalent degree;

(3) Not have been convicted in any jurisdiction of a felony, theft of property, or a crime involving an act of violence for which a pardon has not been granted;

(4) Be a citizen of the United States;

(5) Not have been discharged from the United States Armed Forces under other than honorable conditions; and

(6) Be in compliance with any other reasonable qualifications that the Division of Higher Education may fix by rule.

(e)(1) An applicant for an admissions representative's license shall apply to the Identification Bureau of the Division of Arkansas State Police for a state and national criminal background check to be conducted by the Federal Bureau of Investigation.

(2) The check shall conform to the applicable federal standards and shall include the taking of fingerprints.

(3) The applicant shall sign a release of information to the Division of Higher Education and shall be responsible to the Division of Arkansas State Police for the payment of any fee associated with the criminal background check.

(4) Upon completion of the criminal background check, the Identification Bureau of the Division of Arkansas State Police shall forward all information obtained concerning the person in the commission of any felony, Class A misdemeanor, or a crime involving an act of violence for which a pardon has not been granted.

(f)(1)(A) The Division of Higher Education may issue a nonrenewable temporary license pending the results of the criminal background check.

(B) The temporary license shall be valid for no more than six (6) months.

(2) Upon receipt of information from the Identification Bureau of the Division of Arkansas State Police that the person holding the temporary license has been convicted of a felony, Class A misdemeanor, or a crime involving an act of violence for which a pardon has not been granted, the Division of Higher Education shall immediately revoke the temporary license.

(g)(1) The provisions of subdivision (d)(3) of this section may be waived by the Division of Higher Education upon the request of:

(A) An affected applicant for licensure; or

(B) The person holding a license subject to revocation.

(2) Circumstances for which a waiver may be granted shall include, but not be limited to, the following:

(A) The age at which the crime was committed;

(B) The circumstances surrounding the crime;

(C) The length of time since the crime;

(D) Subsequent work history;

(E) Employment references;

(F) Character references; and

(G) Other evidence demonstrating that the applicant does not pose a threat.

(h)(1) Any information received by the Division of Higher Education from the Identification Bureau of the Division of Arkansas State Police under this section shall not be available for examination except by:

(A) The affected applicant for licensure or his or her authorized representative; or

(B) The person whose license is subject to revocation or his or her authorized representative.

(2) A record, file, or document shall not be removed from the custody of the Division of Arkansas State Police.

(i) Any information made available to the affected applicant for licensure or the person whose license is subject to revocation shall be information pertaining to that person only.

(j) Rights of privilege and confidentiality established in this section shall not extend to any document created for purposes other than the background check required by this section.

(k) In consultation with the State Board of Private Career Education, the Division of Higher Education shall adopt the necessary rules to fully implement the provisions of this section.

History. Acts 1983, No. 770, § 6; A.S.A. 1947, § 80-4306; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1; 2003, No. 1781, §§ 11-13; 2009, No. 1478, § 4; 2017, No. 565, § 9; 2019, No. 755, § 5; 2019, No. 910, §§ 1885-1895.

Publisher's Notes. Former § 6-51-609 was renumbered as § 6-51-608 by Acts 1989, No. 906.

Amendments. The 2017 amendment substituted "Department of Higher Education" for "director" and "board" throughout the section; deleted former (a)(1) designation and (a)(2); in (a), substituted "A" for "No", inserted "not", and substituted "Department of Higher Education" for "Director of the State Board of Private Career Education"; redesignated former (c)(2) as (c)(2)(A) and (B); substituted "Director of the Department of Higher Education" for "chair of the board" in (c)(2)(A);

substituted "United States Armed Forces" for "armed services of the United States" in (d)(5); substituted "under" for "pursuant to" in the introductory language of (h)(1); in (h)(2), substituted "A" for "No" and inserted "not"; and, in (k), substituted "In consultation with the State Board of Private Career Education, the Department of Higher Education" for "The board" and deleted "and regulations" following "rules".

The 2019 amendment by No. 755 rewrote (a) and redesignated it as (a)(1); and added (a)(2).

The 2019 amendment by No. 910 substituted "Division of Higher Education" for "Department of Higher Education" throughout the section; and substituted "Division of Arkansas State Police" for "Department of Arkansas State Police" throughout (e) and (h).

6-51-610. Fees.

(a) In consultation with the State Board of Private Career Education, the Division of Higher Education shall set fees for schools and admissions representatives.

(b) The fees collected under this subchapter, except fees collected for the Private Career School Student Protection Trust Fund, shall be deposited into the State Treasury as special revenues credited to the Private Career Education Fund.

(c) A license fee shall not be refunded in the event of a school or an admissions representative's license suspension, revocation, denial, or request for withdrawal of an application by a school.

History. Acts 1983, No. 770, § 7; A.S.A. 1947, § 80-4307; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1; 2017, No. 565, § 10; 2019, No. 910, § 1896.

Publisher's Notes. Former § 6-51-610 was renumbered as § 6-51-609 by Acts 1989, No. 906.

Amendments. The 2017 amendment, in (a), added "In consultation with" and

inserted "the Department of Higher Education"; and, in (c), substituted "A" for "No" and inserted "not".

The 2019 amendment substituted "Division of Higher Education" for "Department of Higher Education" in (a).

Cross References. Private Career Education Fund, § 19-6-462.

6-51-611. License renewal.

(a) Licenses shall be renewable annually.

(b) The licensing period shall be determined by the Division of Higher Education.

(c)(1) Application for renewal of a school license is to be provided in the form and manner prescribed by the division.

(2) The school and its programs of study, facilities, faculty, and all other operations must meet the minimum standards as established by rules.

(d) An application for renewal of an admissions representative's license shall be made on the forms and in the manner prescribed by the division.

History. Acts 1983, No. 770, § 7; A.S.A. 1947, § 80-4307; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1; 2017, No. 565, § 11; 2019, No. 910, §§ 1897-1899.

Publisher's Notes. Former § 6-51-611 was renumbered as § 6-51-610 by Acts 1989, No. 906.

Amendments. The 2017 amendment substituted "Department of Higher Education" for "State Board of Private Career

Education" in (b); substituted "department" for "board" in (c)(1) and (d); and deleted "and regulations" following "rules" at the end of (c)(2).

The 2019 amendment substituted "Division of Higher Education" for "Department of Higher Education" in (b); and substituted "division" for "department" in (c)(1) and (d).

6-51-612. Penalty for operating school without license.

(a) A person, an admissions representative, each member of an association of persons, or each officer of a corporation who opens and conducts a school, satellite school, or extension course site, as defined in this subchapter, upon conviction is guilty of a misdemeanor punishable by a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) or thirty (30) days' imprisonment, or both, at the discretion of the court.

(b) Each day said school continues to be open and operate shall constitute a separate offense.

History. Acts 1983, No. 770, § 9; A.S.A. 1947, § 80-4309; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1; 2021, No. 252, § 5.

A.C.R.C. Notes. The language “without first having obtained a license required in this subchapter”, which should precede “upon conviction” in subsection (a), was apparently struck through inadvertently as part of the amendment made by Acts 2021, No. 252, § 5.

Publisher’s Notes. Former § 6-51-612 was renumbered as § 6-51-611 by Acts 1989, No. 906.

Amendments. The 2021 amendment substituted “upon conviction is guilty” for “or an out-of-state school which offers to sell a program of study in Arkansas, without first having obtained a license required in this subchapter, shall be guilty” in (a); and made stylistic changes.

CASE NOTES

In General.

The Director of the State Board of Private Career Education knew or at the very least should have known that certain material statements in her affidavit for plaintiff’s arrest for violating this section were

false; therefore, in her individual capacity she did not enjoy immunity from plaintiff’s suit or liability thereon under 42 U.S.C. § 1983. *Burk v. Beene*, 948 F.2d 489 (8th Cir. 1991).

6-51-613. Contracts and promissory notes of unlicensed schools void — Recovery of tuition.

(a) All contracts entered into with students or prospective students by schools, satellite schools, extension course sites, or admissions representatives as defined in this subchapter, and all promissory notes or other evidence of indebtedness taken in lieu of cash payments by such schools, shall be null and void unless the schools and admissions representatives are licensed at the time such evidence of indebtedness is entered into as required by this subchapter.

(b) Any person shall have the right to recover moneys paid for enrollment in such unlicensed school by petition to the circuit court from the district in which such person resides; provided that, upon recommendation of the director, the Attorney General may file, on behalf of Arkansas residents contracting with any unlicensed school, an action to recover any tuition funds paid by Arkansas residents to any unlicensed school, which recovery, after costs of litigation, shall be held for the use and benefit of persons having paid such moneys.

History. Acts 1983, No. 770, § 10; A.S.A. 1947, § 80-4310; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1.

Publisher’s Notes. Former § 6-51-613 was renumbered as § 6-51-612 by Acts 1989, No. 906.

6-51-614. Denial, probation, or revocation of school license — Review.

(a) The Division of Higher Education shall have the authority to refuse to issue a school license, to place on probation, or to revoke a school license theretofore issued.

(b) Any school dissatisfied with the decision to refuse to license, to revoke, or to suspend a license may seek judicial review, provided the school files notice of appeal in Pulaski County Circuit Court within

fifteen (15) calendar days immediately following the date of notification of this action by the division.

History. Acts 1983, No. 770, § 7; A.S.A. 1947, § 80-4307; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1; 2005, No. 1962, § 15; 2017, No. 565, § 12; 2019, No. 910, § 1900.

Publisher's Notes. Former § 6-51-614 was renumbered as § 6-51-613 by Acts 1989, No. 906.

Amendments. The 2017 amendment

substituted "Department of Higher Education" for "State Board of Private Career Education, acting by and through the director" in (a); and substituted "department" for "director" in (b).

The 2019 amendment substituted "Division of Higher Education" for "Department of Higher Education" in (a).

6-51-615. Denial or suspension of admissions representative's license — Review — Penalty.

(a) A person shall not be granted an admissions representative's license if, upon investigation, the applicant is found not to meet the requirements for an admissions representative under this subchapter.

(b) The Director of the Division of Higher Education, upon receipt of information considered dependable which indicates fraud, misrepresentation, or unethical practices on the part of an applicant, may deny issuance of a license applied for or may suspend immediately a license already issued pending a review by the Division of Higher Education.

(c) Any applicant dissatisfied with the decision to refuse, suspend, or revoke a license may seek judicial review, provided the applicant files notice of appeal in Pulaski County Circuit Court within fifteen (15) calendar days immediately following the date of notification of action by the director.

(d) Any person violating the provisions of this subchapter shall be guilty of a Class B misdemeanor.

History. Acts 1983, No. 770, §§ 11, 12; A.S.A. 1947, §§ 80-4311, 80-4312; Acts 1989, No. 906, § 1; 1995, No. 1213, § 1; 2005, No. 1994, § 235; 2017, No. 565, § 13; 2019, No. 910, § 1901.

Publisher's Notes. Former § 6-51-615 was renumbered as § 6-51-614 by Acts 1989, No. 906.

Amendments. The 2017 amendment, in (a), substituted "A" for "No" and in-

serted "not"; and substituted "Department of Higher Education" for "State Board of Private Career Education" twice in (b).

The 2019 amendment substituted "Director of the Division of Higher Education" for "Director of the Department of Higher Education" and "Division of Higher Education" for "Department of Higher Education" in (b).

6-51-616. Student grievance procedure.

(a) Any student may file a written complaint with the Division of Higher Education on the forms prescribed and furnished by the division for that purpose if the student has reason to believe he or she is suffering loss or damage resulting from:

(1) The failure of a school to perform agreements made with the student; or

(2) An admissions representative's misrepresentations in enrolling the student.

(b)(1) All complaints shall be investigated, and attempts shall be made to resolve them informally.

(2) If an informal resolution cannot be achieved, the aggrieved party may request a formal hearing to be held before the State Board of Private Career Education.

(c) The aggrieved party may not pursue resolution before the board if legal action has been filed.

(d) The request for a hearing shall be in writing and filed with the director within one (1) year of completion of, or withdrawal from, the school.

(e) The written request for a hearing shall name the parties involved and specific facts giving rise to the dispute.

(f) The ruling of the board shall be binding upon the parties.

History. Acts 1989, No. 906, § 1; 1989 (3rd Ex. Sess.), No. 51, § 1; 1995, No. 1213, § 1; 2003, No. 1781, § 14; 2017, No. 565, § 14; 2021, No. 252, § 6.

Publisher's Notes. Former § 6-51-616 was renumbered as § 6-51-615 by Acts 1989, No. 906.

Amendments. The 2017 amendment, in the introductory language of (a), substituted "Department of Higher Education" for the first occurrence of "director" and

"department" for the second occurrence of "director".

The 2021 amendment substituted "State Board of Private Career Education" for "Private Career Education Arbitration Panel" in (b)(2); in (c), substituted "resolution" for "arbitration" and "board" for "panel"; in (d) and (e), substituted "a hearing shall" for "arbitration must"; and substituted board" for "panel" in (f).

6-51-617. State Board of Private Career Education — Dispute resolution.

(a) The State Board of Private Career Education shall represent the sole authority to resolve disputes between a student and a school as to grievances relating to:

(1) The failure of the school to perform agreements made with the student; or

(2) An admissions representative's misrepresentations in enrolling the student.

(b)(1) In resolving disputes, the board shall be exempt from judicial redress for failure to exercise skill or care in the performance of its duties.

(2) The proceeding, confirmation, or vacation of an award and appeal shall be conducted pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1989, No. 906, § 1; 1995, No. 1213, § 1; 2003, No. 1781, § 15; 2017, No. 565, § 15; 2019, No. 910, § 1902; 2021, No. 252, § 7.

Amendments. The 2017 amendment, in (b)(1), added "In consultation with" and inserted "the Director of the Department of Higher Education".

The 2019 amendment substituted "Director of the Division of Higher Education" for "Director of the Department of Higher Education" in the first sentence of (b)(1).

The 2021 amendment, in the section heading and in the introductory language of (a), substituted "State Board of Private

Career Education” for “Private Career Education Arbitration Panel”; added “Dispute resolution” in the section heading; in the introductory language of (a), deleted “as referenced in this section” preceding “shall represent” and substituted “a school” for “schools”; deleted former (b)

and redesignated former (c) as (b); in (b)(1), substituted “board” for “panel”; in (b)(2), deleted “arbitration” preceding “proceeding” and substituted “Arkansas Administrative Procedure Act, § 25-15-201 et seq.” for “Uniform Arbitration Act, § 16-108-201 et seq.”.

6-51-618. Fines.

(a) When the Division of Higher Education finds that a school is guilty of a violation of this subchapter or the rules of the division, it shall have the power and authority to impose a penalty on the school.

(b) Prior to the imposition of any penalty, the division shall hold an investigation and hearing after notice to the school.

(c)(1) Upon imposition of a penalty, the division shall have the power and authority to require that the school pay a penalty to the division with regard to the violation, with the sanction that the license may be suspended until the penalty is paid.

(2) No penalty imposed by the division may exceed five hundred dollars (\$500) per violation.

(d) Any school dissatisfied with the penalties imposed may seek judicial review, provided the school files notice of appeal in Pulaski County Circuit Court within fifteen (15) calendar days immediately following the date of notification of this action by the Director of the Division of Higher Education.

(e) The power and authority of the division to impose these penalties shall not be affected by any other civil or criminal proceeding concerning the same violation.

History. Acts 1995, No. 1213, § 1; 2003, No. 1781, § 16; 2017, No. 565, § 16; 2019, No. 910, § 1903.

Amendments. The 2017 amendment substituted “department” for “board” throughout the section; in (a), substituted “Department of Higher Education” for “State Board of Private Career Education” and deleted “and regulations” following “rules”; and substituted “Director of the

Department of Higher Education” for “director” in (d).

The 2019 amendment substituted “Division of Higher Education” for “Department of Higher Education” in (a); substituted “division” for “department” throughout the section; and substituted “Director of the Division of Higher Education” for “Director of the Department of Higher Education” in (d).

6-51-619. Subpoenas and subpoenas duces tecum.

(a) The Division of Higher Education shall have the power to issue subpoenas and subpoenas duces tecum in connection with both its investigations and hearings.

(b) A subpoena duces tecum may require any book, writing, document, or other paper or thing which is germane to an investigation or hearing conducted by the division.

(c)(1) Service of a subpoena shall be as provided by law for the service of subpoenas in civil cases in the circuit courts of this state, and the fees and mileage of officers serving the subpoenas and of witnesses appear-

ing in answer to the subpoenas shall be the same as provided by law for proceedings in civil cases in the circuit courts of this state.

(2)(A) The division shall issue a subpoena or subpoena duces tecum upon the request of any party to a hearing before the division.

(B) The fees and mileage of the officers serving the subpoena and of the witness shall be paid by the party at whose request a witness is subpoenaed.

(d)(1) In the event a person shall have been served with a subpoena or subpoena duces tecum as provided in this section and fails to comply therewith, the division may apply to the circuit court of the county in which the division is conducting its investigation or hearing for an order causing the arrest of the person and directing that the person be brought before the court.

(2) The court shall have the power to punish the disobedient person for contempt as provided by law in the trial of civil cases in the circuit courts of this state.

History. Acts 1995, No. 1213, § 1; 2017, No. 565, § 17; 2019, No. 910, § 1904. “State Board of Private Career Education” in (a).

Amendments. The 2017 amendment substituted “department” for “board” throughout the section; and substituted “Department of Higher Education” for “division” for “department” throughout the section.

6-51-620. Bond.

(a)(1) Each school licensed under this subchapter shall maintain a surety bond during its licensure.

(2) The surety bond shall be submitted to the Division of Higher Education on or before the expiration date of the bond.

(3) The bond shall be for the period during which the license is issued.

(4)(A) The surety bond shall be conditioned to provide indemnification to any student or enrollee who suffers loss or damage as a result of:

(i) A violation of a provision of this subchapter or any rule of the division by the school or its officers, admissions representatives, or employees;

(ii) The failure or neglect of the school to faithfully perform all agreements, express or otherwise, with the student, enrollee, one (1) or both of the parents of the student or enrollee, or a guardian of the student or enrollee, as represented by the application for licensure and the materials submitted in support of that application; or

(iii) An admissions representative’s misrepresentation in procuring the student’s enrollment.

(B)(i) A surety on that bond may be released after the surety has made a written notice of at least thirty (30) days before the release.

(ii) However, a surety may not be released from the bond unless all sureties on the bond are released.

(C)(i) The license shall be suspended when that school is no longer covered by a surety bond meeting the required amount.

(ii) The division shall notify the school in writing at least ten (10) days prior to release of the surety or sureties that the license is suspended until another surety bond is filed in the manner and amount required under this subchapter.

(5) The bond shall be based on gross tuition, meaning the total amount collected by a school during the most recently completed twelve-month fiscal year, reduced only by the amount of refunds paid during the fiscal year, for tuition, application fees, registration fees, and those other fees deemed appropriate by rule of the division.

(6) The division shall determine the sum of each surety bond based upon the following guidelines:

(A) Except as provided in subdivisions (a)(6)(B) and (C) of this section, a school shall procure and maintain a bond equal to ten percent (10%) of the gross tuition with a minimum bond amount of five thousand dollars (\$5,000) with the maximum bond amount to be determined by the division;

(B) Schools that have no gross tuition charges assessed for the previous year shall secure and maintain a surety bond in the amount of ten thousand dollars (\$10,000); and

(C) Schools that have a total cost per program of three thousand dollars (\$3,000) or less shall not be required to have a bond.

(7)(A) The bond shall be a surety bond issued by a company authorized to do business in this state.

(B) The bond shall be to the state to be used for payment of a tuition refund due to a student or potential student.

(b) A surety bond is not required for licensees approved by the division on April 10, 1995, that maintain continuous licensure.

(c) A right of action shall not accrue on the surety bond to or for the use of any person or entity other than the obligee named in the bond or the heirs, executors, administrators, or successors of the obligee.

History. Acts 1995, No. 1213, § 1; 2003, No. 1781, §§ 17-19; 2017, No. 565, § 18; 2019, No. 755, § 6; 2019, No. 910, §§ 1905-1911.

Amendments. The 2017 amendment substituted “department” for “board” throughout the section; substituted “Department of Higher Education” for “State Board of Private Career Education” in (a)(2); substituted “rule of the department” for “rule or regulation of this board” in (a)(4)(A)(i); substituted “rule of the department” for “rule and regulation of the board” in (a)(5)(A); redesignated former

(a)(7) as (a)(7)(A) and (B); and, in (c), substituted “A” for “No” and inserted “not”.

The 2019 amendment by No. 755 deleted (a)(5)(B) and redesignated (a)(5)(A) as (a)(5).

The 2019 amendment by No. 910 substituted “Division of Higher Education” for “Department of Higher Education” in (a)(2); substituted “division” for “department” throughout the section; and substituted “subchapter” for “chapter” in (a)(4)(C)(ii).

6-51-621. Construction of subchapter.

Nothing in this subchapter shall be construed to affect the responsibilities of the Arkansas Higher Education Coordinating Board as defined in § 6-61-301.

History. Acts 1995, No. 1213, § 2.

6-51-622. Noncommercial driver training instruction.

(a) A person teaching or instructing a person seventeen (17) years of age or younger to drive a noncommercial motor vehicle or a motorcycle shall offer the minimum amount of driver training to the student driver as prescribed by this section.

(b) The minimum requirements for classroom driver training instruction for noncommercial motor vehicles shall consist of:

(1) Thirty (30) hours or more of classroom instruction on driving techniques and rules of the road in Arkansas, including six (6) hours of classroom instruction on traffic law changes that have occurred within the last ten (10) years; and

(2) Ten (10) hours of behind-the-wheel driving experience.

(c) The minimum requirements of correspondence programs for driver training instruction for noncommercial motor vehicles shall consist of:

(1) A maximum of twenty-eight (28) hours of correspondence work;

(2) A minimum of two (2) hours or more of classroom instruction on driving techniques and rules of the road in Arkansas; and

(3) Ten (10) hours of behind-the-wheel driving experience.

(d)(1) In consultation with the State Board of Private Career Education, the Division of Higher Education may promulgate reasonable rules to implement, enforce, and administer this section.

(2) The rules of the division shall be issued in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(e) The requirements for classroom driver training instruction for a motorcycle are:

(1) A minimum of five (5) hours of classroom instruction on driving techniques and rules of the road in Arkansas; and

(2) A minimum of ten (10) hours of actual motorcycle driving experience.

History. Acts 2001, No. 1756, § 1; 2009, No. 1478, §§ 5, 6; 2017, No. 565, § 19; 2019, No. 910, § 1912.

Amendments. The 2017 amendment, in (d)(1), added “In consultation with”, inserted “the Department of Higher Education” and deleted “and regulations” following “rules”; and substituted “rules of

the department” for “board’s regulations” in (d)(2).

The 2019 amendment substituted “Division of Higher Education” for “Department of Higher Education” in (d)(1); and substituted “division” for “department” in (d)(2).

6-51-623. Defensive driving instruction.

A person shall not be required to obtain a license from the Division of Higher Education as a requirement for teaching or providing a course in defensive driving under a court-mandated defensive driving class.

History. Acts 2003, No. 768, § 1; 2017, No. 565, § 20; 2019, No. 910, § 1913.

Amendments. The 2017 amendment substituted "Department of Higher Education" for "State Board of Private Career Education".

The 2019 amendment substituted "Division of Higher Education" for "Department of Higher Education".

6-51-624. Applicability.

This subchapter does not apply to a school or training program that offers only avocational or recreational instruction or teacher instruction for the following subjects:

- (1) Dance;
- (2) Music;
- (3) Yoga;
- (4) Horseback riding; or
- (5) Sewing, knitting, or other needlecrafts.

History. Acts 2015, No. 45, § 2.

SUBCHAPTER 7 — ASSOCIATE OF APPLIED SCIENCE DEGREE IN NURSING PROGRAM

SECTION.

6-51-701. Establishment of program —
Definition.

SECTION.

6-51-702. Nature of program.
6-51-703. Granting of degrees.

Effective Dates. Acts 1989, No. 66, § 4; Feb. 17, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that there is a shortage of qualified nurses in the state; that the critical health care needs of the people of this state required the immediate passage of this act. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new de-

partments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-51-701. Establishment of program — Definition.

(a) The Division of Higher Education is hereby authorized to establish for the technical institutes or vocational-technical schools of this state an Associate of Applied Science Degree in Nursing Program.

(b)(1) A nursing program shall be established by the division. The nursing program shall be in accordance with the standards established by the Arkansas State Board of Nursing.

(2)(A) The course of instruction shall also be developed in such manner as to be accredited by the national accreditation association of nursing programs.

(B) The course of instruction shall allow for not more than twelve (12) semester hours of credit for previous nursing education or for nursing experience.

(C) A maximum of twenty-five (25) semester hours of credit by "general education" by challenge, the College Level Examination Program, shall be allowed.

(3) Students shall complete a transition course if required by the Arkansas State Board of Nursing which is in accordance with standards set by the Arkansas State Board of Nursing.

(c)(1) Any technical institute or vocational-technical school desiring to offer the nursing program may apply for approval to the Career Education and Workforce Development Board.

(2) If approval is granted, the school must then seek approval from the Arkansas State Board of Nursing.

(d)(1) The Career Education and Workforce Development Board is authorized to promulgate rules necessary to implement this subchapter.

(2) The rules shall comply with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(e) Courses of instruction shall be designed to enable the student completing the program to qualify for licensure as a registered nurse upon taking and passing the examination required by the Arkansas State Board of Nursing.

(f)(1) The program of instruction as authorized in this subchapter may be offered to licensed practical nurses or licensed psychiatric technician nurses duly licensed by the Arkansas State Board of Nursing.

(2) For admittance to the nursing program, the nurse must have:

(A) A minimum of two thousand (2,000) total hours of documented work and occupational experience in a healthcare institution; and

(B) Documentation from an official of a healthcare institution that the candidate has been an employee for the required length of time.

(3) For purposes of this subsection, a "healthcare institution" means a hospital, a long-term-care facility, a medical doctor's office or clinic, an outpatient clinic, a residential care facility, any of several state agencies, or employment as a public health, industrial, or school nurse.

History. Acts 1989, No. 66, § 1; 1999, No. 1323, §§ 41, 42; 2019, No. 315, § 351; 2019, No. 910, §§ 1914, 1915.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” in (d)(1) and in (d)(2).

The 2019 amendment by No. 910 substituted “Division of Higher Education” for “Department of Career Education” in (a); and substituted “division” for “department” in (b)(1).

6-51-702. Nature of program.

The licensed practical nurse or licensed psychiatric technician nurse to registered nurse program is an upward-mobility program for licensed practical nurses or licensed psychiatric technician nurses who have completed one (1) calendar year, or two thousand (2,000) hours minimum, of work in a healthcare institution. The program of study will lead to the Associate of Applied Science Degree in Nursing.

History. Acts 1989, No. 66, § 1.

6-51-703. Granting of degrees.

The Career Education and Workforce Development Board is authorized to grant the degree to students who complete the full course of instruction which entitles them to the degree. The diploma is to be signed by such officials as the board shall designate.

History. Acts 1989, No. 66, § 1.

SUBCHAPTER 8 — COMMUNITY-BASED EDUCATION CENTERS

SECTION.

- 6-51-801. Criteria for centers.
- 6-51-802. Policy for centers established.
- 6-51-803. Distribution of funds.
- 6-51-804. Property ownership — Board of school superintendents.

SECTION.

- 6-51-805. Creation of general advisory council.
- 6-51-806. Local education agencies — Eligibility for federal funds.

Effective Dates. Acts 1995, No. 1194, § 38: July 1, 1995. Emergency clause provided: “It is hereby found and determined by the Eightieth General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a two (2) year period; that the effectiveness of this Act on July 1, 1995 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an

extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 1995 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995.”

6-51-801. Criteria for centers.

(a) The State Board of Education shall review criteria established by the Career Education and Workforce Development Board that must be met by any secondary vocational center requesting permission to become a community-based education center.

(b)(1) The board shall periodically review and revise, if necessary, the community-based education center criteria.

(2) Such centers may include:

(A) Offerings of traditional vocational-technical education during regular school hours;

(B) Extended day programs so that students may attend the center for vocational instruction after regular school hours;

(C) Adult basic education or general adult education programs;

(D) Adult skill training and retraining for the general population;

(E) Industry start-up and retraining; and

(F) Workplace literacy.

(c) Any secondary vocational center which satisfies the criteria established by the board pursuant to this section, in accordance with procedures to be adopted by the board, may seek approval from the board to become a community-based education center. Upon approval by the board of any such application, the school may change its name to

_____ Community-Based Education Center.

(d) The secondary area vocational centers which elect to provide enhanced education and training employment or retraining services appropriate to area industry and business needs may request from the board that they be designated as community-based education centers.

(e) A list of new and existing programs shall be published annually on the Division of Career and Technical Education's and Office of Skills Development's website.

History. Acts 1991, No. 228, § 1; 1995, No. 1194, § 16; 1999, No. 1323, § 43; 2021, No. 545, §§ 20, 21.

Amendments. The 2021 amendment substituted "State Board of Education

shall review criteria established by the Career Education and Workforce Development Board" for "State Board of Career Education shall establish criteria" in (a); and added (e).

6-51-802. Policy for centers established.

The Career Education and Workforce Development Board shall establish policy for community-based education centers in such areas as fees, operating and capital budgets, allocation of funds, instructional programs and related criteria for the operation of community-based education centers, degrees and certificates, and academic and programmatic standards.

History. Acts 1991, No. 228, § 2.

6-51-803. Distribution of funds.

(a) Following publication by the Career Education and Workforce Development Board of criteria required to qualify for designation as a community-based education center, local educational agencies may develop a budget proposal for submission to the board for funding consideration.

(b) The board shall distribute the funds in as equitable a manner as possible while maintaining the best utilization of funds appropriated by the General Assembly.

History. Acts 1991, No. 228, § 3.

6-51-804. Property ownership — Board of school superintendents.

(a)(1) The board which currently owns the property and capital equipment of any existing community-based education center is authorized to retain ownership of such properties.

(2) Provided, however, ownership of such properties may, by vote of the board, be restructured.

(b)(1) Furthermore, the board of the host school is encouraged to create a board composed of superintendents of all schools sending students to the community-based education center.

(2) Such board may act as a governing board for the community-based education center.

(3) Furthermore, such boards are encouraged to have members that are representative of business and industry in the community-based education centers service area.

History. Acts 1991, No. 228, § 5.

6-51-805. Creation of general advisory council.

(a) The State Board of Education shall operate as a coordinating board for community-based education centers.

(b)(1) Furthermore, the governing board of a community-based education center is encouraged to create a general advisory council.

(2) Such general advisory council shall provide advice on programs of the school, including data that reflects the needs of business and industry served by the community-based education center.

History. Acts 1991, No. 228, § 4; 2007, No. 827, § 118; 2021, No. 545, § 22.

Amendments. The 2021 amendment, in (a), substituted “State Board of Education” for “State Board of Career Educa-

tion”, and substituted “operate as a coordinating board for community-based education centers” for “relate to the community-based education centers as a coordinating board”.

6-51-806. Local education agencies — Eligibility for federal funds.

(a) The General Assembly designates that the community-based education centers created by this subchapter meet the definition of “local education agencies” by virtue of the fact that each is a public authority legally constituted within this state to perform a service function for a public elementary and secondary school in school districts and other political subdivisions of the state or such combination of school districts or counties which are recognized by the General Assembly as administrative agents for public elementary and secondary schools.

(b) This section intends to recognize the function of the community-based education centers and to provide eligibility to community-based education centers to receive federal funds.

History. Acts 2001, No. 1290, § 1.

SUBCHAPTER 9 — POSTSECONDARY VOCATIONAL AND TECHNICAL EDUCATION

SECTION.
6-51-901. Purpose.
6-51-902. Accountability measures and performance indicators.
6-51-903. Local board of directors — Members.
6-51-904. Duties of local board for technical institutes.

SECTION.
6-51-905. Technical institutes.
6-51-906. Comprehensive lifelong learning centers.
6-51-907. Expanded associate degrees in instruction — College transfer courses — Definition.

Effective Dates. Acts 1991, No. 773, § 14: Mar. 26, 1991. Emergency clause provided: “It is hereby found and determined by the Seventy-Eighth General Assembly that the reconstructing of the delivery system of adult education and vocational education in this state is necessary to provide quality educational programs which are accessible by all segments of the population in this state; that recent studies have shown that in the year 2000, workers must have a minimum of fourteen (14) years education to function in the work force; that the state is in desperate need of training, retraining and upgrading the work force; that this act will provide a means to establish more institutions working closely with business, industry, labor and agriculture to provide every citizen with an opportunity to participate in vocational-technical training and associate degree programs within a reasonable driving distance of their homes; that it is necessary for this

act to become effective immediately so needed changes can be implemented and comprehensive planning can begin. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.”
Acts 1997, No. 803, § 13: approved Mar. 25, 1997. Emergency clause provided: “It is hereby found and determined by the General Assembly that the reorganization of the governmental agencies involved in providing vocational education in this state are immediately in need of improvement; and that this act provides the necessary mechanism for such improvement. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective 30 days after approval by the Governor. If the bill is neither approved nor

vetoed by the Governor, it shall become effective 30 days after the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective 30 days after the date the last house overrides the veto.”

Acts 2013, No. 594, § 7[2]: July 1, 2013. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that under Arkansas Code § 25-15-105, the authority of technical institutes to charge certain fees currently collected by the institutes will expire on July 1, 2013, and that this act is necessary to allow the technical institutes to continue to collect the revenues they currently receive and to allow the technical institutes to maintain their current level of operation. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013.”

Acts 2015, No. 923, § 34: July 1, 2015. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2015 is essential to the operation of the agency for which the appropriations in this Act are provided; with the exception that Section 24 in this Act shall be in full force and effect from and after the date of its passage and approval, and that in the event of an extension of the legislative session, the delay in the effective date of

this Act beyond July 1, 2015, with the exception that Section 24 in this Act shall be in full force and effect from and after the date of its passage and approval, could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2015; with the exception that Section 24 in this Act shall be in full force and effect from and after the date of its passage and approval.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-51-901. Purpose.

It is the purpose of this subchapter to initiate a broad array of legislative authority whose purpose it is to:

- (1) Upgrade the quality and quantity of postsecondary vocational and technical education;
- (2) Permit the expansion of programs leading to associate of applied science degrees; and
- (3) Augment the Arkansas Higher Education Coordinating Board by increasing its membership that is representative of business and industry, including the service-oriented industries in Arkansas.

History. Acts 1991, No. 773, § 1; 2019, No. 910, § 1916.

Amendments. The 2019 amendment substituted “Arkansas Higher Education

Coordinating Board" for "State Board of Career Education" in (3).

6-51-902. Accountability measures and performance indicators.

(a)(1) All postsecondary vocational-technical schools, technical institutes, and comprehensive lifelong learning centers within the State of Arkansas shall present to the Arkansas Higher Education Coordinating Board and the Division of Higher Education a report reflecting a satisfactory level of performance-based system of accountability measures and performance indicators as defined in this section.

(2) The report shall be filed with the board and the division annually.

(b) In order to promote a coordinated system of postsecondary vocational and technical education in Arkansas and to provide an effective delivery system, the board shall:

(1) Review, evaluate, and coordinate budget requests for the institutions in the system; and

(2)(A) Develop a system of accountability measures and performance indicators to be used as the basis for budget requests.

(B) The system of accountability measures and performance indicators shall incorporate, as a minimum, the following:

(i) Student attainment of academic and vocational and technical skill proficiencies;

(ii) Student attainment of a diploma, skill certificate, or recognized postsecondary credential;

(iii) Student placement, retention, and completion of postsecondary or advanced training, employment, or military service;

(iv) Student participation in and completion of programs of non-traditional training and employment;

(v) Cost effectiveness as measured by cost per contact hour of instruction;

(vi) Business and industry services as measured by the number of contact hours of instruction for specific business and industry courses; and

(vii) The degree to which local support has been obtained by the institution as evidenced by:

(a) Private sector cash and in-kind donations;

(b) Support from local units of government;

(c) Foundations; and

(d) Other such nonstate sources as may be appropriate.

(c) With the exception of a special funding appropriation, all state funds shall be requested by the board for the technical institutes, postsecondary vocational-technical schools, and comprehensive lifelong learning centers based on a funding formula to be developed and approved by the board and shall be based upon the accountability measures and performance indicators enumerated in this section.

(d) Upon the failure to find that satisfactory progress is being made by the school, the board shall dissolve the operation of the school or convert the school to an adult education center, a secondary vocational center, or another appropriate role and function.

(e) For purposes of standardized reporting and accountability only, the board shall develop for all postsecondary vocational schools, technical institutes, and comprehensive lifelong learning centers a reporting system for headcount enrollment and full-time-equivalency enrollment which is consistent with policies followed by the board.

History. Acts 1991, No. 773, §§ 7-10; 1999, No. 1158, § 1; 2019, No. 910, §§ 1917-1919; 2021, No. 497, § 3.

Amendments. The 2019 amendment substituted "Arkansas Higher Education Coordinating Board" for "State Board of Career Education" throughout (a) through (d); substituted "Division of Higher Education" for "Department of Career Education" in (a)(1); substituted "division" for

"department" in (a)(2); deleted "the State Board of Career Education, after consultation with" following "accountability only" in (e); and, in (f), deleted "presently" preceding "structured", and substituted "Department of Corrections" for "State Board of Career Education".

The 2021 amendment repealed former (f).

6-51-903. Local board of directors — Members.

(a) All postsecondary vocational-technical schools, including those which expand their services under § 6-51-217 or under § 6-51-906 shall be governed by a local board of directors.

(b)(1)(A) The Governor shall appoint a five-member local board of directors composed of residents of the local geographic service area in which the institution is located.

(B) Appointment shall be subject to confirmation by the Senate.

(C) No candidate for public office, holder of public office in the state, or his or her spouse, shall serve as a member of a local board.

(D) Members of the local board shall be qualified electors of the geographic service area in which the institution is located.

(E) Local board appointees shall have a high interest in vocational and technical education, a strong desire and commitment to serve the institution in the improvement of its offerings, and shall be representative of business, industry, labor, and agriculture, including service occupations.

(2)(A) The term of office for local board members shall be five (5) years.

(B) The initial board appointees shall determine their terms by lot so that no more than one (1) term shall expire during any given year.

(C) A local board appointee shall serve no more than two (2) consecutive terms.

(3) When a vacancy occurs in the membership of the board, the president or director of the institution shall so notify the Governor who shall appoint a successor to the person who vacated membership, who shall serve the unexpired term of the person succeeded.

History. Acts 1991, No. 773, § 2.

6-51-904. Duties of local board for technical institutes.

(a) The powers and duties of the local board shall be as follows:

(1) To acquire, hold, and transfer real and personal property, to enter into contracts, to institute and defend legal actions and suits, and to exercise such other rights and privileges as may be necessary for the management and administration of the technical institute;

(2) To determine a minimum level for student tuition and fees to be charged by the technical institute, including without limitation penalty fees;

(3) To appoint from the candidates certified by the Arkansas Higher Education Coordinating Board and approved by the Governor, the president of the technical institute or director of the comprehensive lifelong learning center;

(4) To appoint, upon nomination of the president or director, the members of the administrative and teaching staffs;

(5) To determine, with the approval of the Arkansas Higher Education Coordinating Board, the educational program of the institution; and

(6) Other powers and duties as provided in this subchapter including without limitation those relating to accountability measures and performance indicators under § 6-51-902.

(b) All records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the technical institutes and comprehensive lifelong learning centers shall be transferred from the Arkansas Higher Education Coordinating Board to the local boards of directors.

(c) The local board may make rules not inconsistent with the provisions of this subchapter or inconsistent with the rules of the Arkansas Higher Education Coordinating Board as are necessary for the proper administration and operation of the institution.

(d) The local board may contract with a nonprofit organization or a local school district board of directors within its service area to offer secondary-level general academic and vocational and technical courses and programs, adult literacy courses, or both.

History. Acts 1991, No. 773, § 2; 1997, No. 803, § 9; 2013, No. 594, § 1; 2015, No. 923, § 31; 2019, No. 315, § 352; 2019, No. 910, §§ 1920, 1921.

Amendments. The 2019 amendment by No. 315 deleted “and regulations” following “rules” twice in (c).

The 2019 amendment by No. 910 substituted “Arkansas Higher Education Co-

ordinating Board” for “Career Education and Workforce Development Board” in (a)(3) and (a)(5); and substituted “including without limitation those relating to accountability measures and performance indicators under § 6-51-902” for “or as delegated to it by the Career Education and Workforce Development Board” in (a)(6).

6-51-905. Technical institutes.

(a) A technical institute may offer programs which lead to an Associate of Applied Science degree.

(b) Each technical institute shall operate within a service area assigned by the Arkansas Higher Education Coordinating Board.

(c)(1) The board of directors of the technical institute may contract with existing institutions of higher education for the operation of any associate degree programs offered at the institute.

(2) Such programs must be approved by the Arkansas Higher Education Coordinating Board and may be offered either on-site at the institute or at a satellite location.

(d)(1) Any degree at or above the associate degree level offered at a technical institute or any state-supported postsecondary institution must be approved by the Arkansas Higher Education Coordinating Board.

(2) Those degrees offered at a technical institute must be awarded by an Arkansas higher education institution accredited by an accrediting agency recognized by the United States Department of Education.

(3) Any such degree program must be offered through the institute's center for collegiate instruction.

(e)(1)(A) The technical institute shall be required to establish a policy that specifically outlines a plan to work with local business, industry, and agriculture to meet technological and training needs.

(B) The plan shall be submitted annually to the local board of directors and the Arkansas Higher Education Coordinating Board for approval.

(C) The plan shall incorporate a study of local needs, including interviews with local business, industry, and agriculture.

(2)(A) The technical institute shall be required to offer courses to address business, industry, and agricultural needs, and when appropriate, teach the course at those sites.

(B) The technical institute may use adjunct faculty or professors under contract to meet this requirement.

History. Acts 1991, No. 773, § 3; 2015, No. 865, § 1; 2019, No. 910, §§ 1922, 1923.

Amendments. The 2019 amendment

substituted "Arkansas Higher Education Coordinating Board" for "Career Education and Workforce Development Board" in (b) and (e)(1)(B).

6-51-906. Comprehensive lifelong learning centers.

(a) Schools not converting to technical institutes as provided by other sections of this subchapter, or community colleges under existing law, shall expand program offerings and become a comprehensive lifelong learning center.

(b) The Arkansas Higher Education Coordinating Board shall establish criteria and program expansions which would require all remaining postsecondary vocational-technical schools to become comprehensive lifelong learning centers.

(c)(1) When a postsecondary vocational-technical school meets the criteria for becoming a comprehensive lifelong learning center as established by the Arkansas Higher Education Coordinating Board, the

school shall make application to the Arkansas Higher Education Coordinating Board seeking that it be designated as such.

(2) Each comprehensive lifelong learning center shall operate within a service area assigned by the Arkansas Higher Education Coordinating Board.

(3)(A) Each comprehensive lifelong learning center may operate satellite campuses apart from the campus of the main center but within the service area of the center.

(B) The establishment, locations, and number of satellite campuses of a center must be approved by the Arkansas Higher Education Coordinating Board.

(4)(A) The board of directors of a comprehensive lifelong learning center may contract with existing institutions of higher education for the operation of any associate degree programs offered at the center, upon approval by the Arkansas Higher Education Coordinating Board.

(B) Any degree program at or above the associate degree level offered at a comprehensive lifelong learning center must be approved by the Arkansas Higher Education Coordinating Board and awarded by an Arkansas institution of higher education accredited by an accrediting agency recognized by the United States Department of Education.

(C) Any such degree program must be offered through the center's center for collegiate instruction.

(d)(1) The Arkansas Higher Education Coordinating Board shall periodically review the program offerings and curricula of the postsecondary vocational-technical schools to assure that lifelong learning opportunities exist for the population served.

(2) The comprehensive lifelong learning centers shall include offerings of:

(A) Workplace literacy programs consisting of remedial education, including adult basic education and general adult education;

(B) Occupational and technical preparation;

(C) Applied foundation courses in mathematics, science, communications, and technologies;

(D) Customized training and adult retraining programs;

(E) Apprenticeship work-based training programs;

(F) Other relevant education and training which meets the needs of the work force and which prepares the state's citizens for lifelong learning opportunities and a quality life; and

(G) May include courses leading to an associate of applied science degree, upon approval by the Arkansas Higher Education Coordinating Board.

(e)(1) Except as provided in this section, the construction, operation, and maintenance of the comprehensive lifelong learning center shall be financed by the state.

(2) Each comprehensive lifelong learning center, acting through its board, shall have the power to accept and receive gifts, grants, profits

from auxiliary enterprises, local millages, and any other local funds to be used as local matching funds for capital outlay expenses of the center.

(3)(A) The comprehensive lifelong learning center shall be required to establish a plan that specifically outlines cooperative efforts with local industries and businesses to meet technological and training needs.

(B) The plan shall be submitted annually to the local board of directors and the Arkansas Higher Education Coordinating Board for approval.

(C) The plan shall incorporate a study of local needs, including interviews with local business and industry.

(4)(A) The comprehensive lifelong learning center shall be required to offer courses to address industry and business needs and, when appropriate, to teach the course at the business or industry site.

(B) The comprehensive lifelong learning center may use adjunct faculty or professors under contract to meet this requirement.

History. Acts 1991, No. 773, § 4; 2015, No. 865, § 2; 2019, No. 910, §§ 1924, 1925.

Amendments. The 2019 amendment substituted “Arkansas Higher Education Coordinating Board” for “Career Education and Workforce Development Board” in (b), (c)(1), (c)(2), (c)(3)(B), and (e)(3)(A); in (c)(1), substituted the second occurrence of “Arkansas Higher Education Co-

ordinating Board” for “board”; deleted “Career Education and Workforce Development Board and the” preceding “Arkansas Higher Education Coordinating Board” in the introductory language of (c)(4) [now (c)(4)(A)]; and substituted “center for collegiate instruction” for “Center for Collegiate Instruction” in (c)(4)(B) [now (c)(4)(C)].

6-51-907. Expanded associate degrees instruction — College transfer courses — Definition.

(a) Any Arkansas technical institute or comprehensive lifelong learning center desiring to offer college transfer courses or to increase the number of associate of applied science degrees being offered may initiate such college transfer courses or occupational degree programs under the provisions of this section upon approval of the Arkansas Higher Education Coordinating Board.

(b)(1) The Center for Collegiate Instruction, hereinafter called “the center”, means a legally designated collegiate center on the campus of a technical institute or a comprehensive lifelong learning center.

(2) The center shall be authorized to coordinate and offer college-level courses at such location.

(3) It shall comply with the established accreditation standards of the Higher Learning Commission for the umbrella college or university which acts as the sponsor for the center.

(c)(1) Any technical institute or comprehensive lifelong learning center that desires to establish a collegiate center shall be required to enter into a memorandum of understanding with the sponsoring colleges or universities.

(2) The guidelines for establishing the memorandum of understanding shall be developed by the board.

(d)(1) The associate degree programs to be offered at the center shall be developed by participating institutions and shall meet all the standards for accreditation by an accrediting agency recognized by the United States Department of Education.

(2) Associate degree programs offered through a center must be approved for implementation by the board.

(e)(1) Each university or college operating at least one (1) collegiate center shall designate a center director who shall manage the operation of the center and any subsequent satellite units which may be developed at other institutions.

(2) Each technical institute or comprehensive lifelong learning center shall designate a collegiate center coordinator who is to be responsible for the overall coordination of the center and its efficient operation.

History. Acts 1991, No. 773, § 5; 2015, No. 865, § 3; 2019, No. 910, § 1926.

deleted “in conjunction with the Career Education and Workforce Development Board” from the end of (c)(2).

Amendments. The 2019 amendment

SUBCHAPTER 10 — MODEL VOCATIONAL-TECHNICAL EDUCATION RESOURCE CENTER ACT OF 1993

[Repealed.]

SECTION.
6-51-1001 — 6-51-1010. [Repealed.]

A.C.R.C. Notes. Acts 2001, No. 415, §§ 1 and 2, provided: “SECTION 1.

(a) All of the records, property, unexpended balances of appropriations, allocations, or other funds of the Vocational-Technical Education Resource Center created pursuant to Arkansas Code 6-51-1001 through 6-51-1010 are transferred to the Northeast Arkansas Educational Cooperative. (b) The personnel of the Vocational-Technical Education Resource Center may be given priority for employment by the Northeast Arkansas Educational Cooperative.

“SECTION 2. EMERGENCY CLAUSE. It is found and determined by the Eighty-third General Assembly that questions have arisen over the use of funds by the Model Vocational-Technical Education Resource Center; that it is currently operating without an approved budget, and it is preventing the proper use of resources which are needed to provide appropriate

educational opportunities for the children of this state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on June 30, 2001.”

Effective Dates. Acts 2001, No. 231, § 4: June 30, 2001. Emergency clause provided: “It is found and determined by the General Assembly that questions have arisen regarding the use of funds by the Model Vocational-Technical Education Resource Center; that it is currently operating without an approved budget, and its existence is preventing the proper use of resources which are needed to provide appropriate educational opportunities for the children of this state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on June 30, 2001.”

6-51-1001 — 6-51-1010. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 2001, No. 231, § 1. The subchapter was derived from the following sources:

- 6-51-1001. Acts 1993, No. 316, § 1.
- 6-51-1002. Acts 1993, No. 316, § 1.
- 6-51-1003. Acts 1993, No. 316, § 1; 1999, No. 21, § 1.
- 6-51-1004. Acts 1993, No. 316, § 1; 1997, No. 277, § 1; 1999, No. 21, § 2.
- 6-51-1005. Acts 1993, No. 316, § 1; 1999, No. 21, § 3.

6-51-1006. Acts 1993, No. 316, § 1; 1999, No. 21, § 4.

6-51-1007. Acts 1993, No. 316, § 1.

6-51-1008. Acts 1993, No. 316, § 1; 1999, No. 21, § 5.

6-51-1009. Acts 1993, No. 316, § 1; 1999, No. 21, § 6.

6-51-1010. Acts 1993, No. 316, § 1; 1999, No. 21, § 7.

SUBCHAPTER 11 — PROCEDURES TO FOLLOW UPON MERGER OF CROWLEY'S RIDGE TECHNICAL INSTITUTE TO EAST ARKANSAS COMMUNITY COLLEGE

SECTION.

- 6-51-1101. Merger.
- 6-51-1102. Board of directors.
- 6-51-1103. Purchasing.
- 6-51-1104. Transfer of assets, obligations, records, personnel, property, unexpended balances, and legal authority.

SECTION.

- 6-51-1105. Funding from the Work Force 2000 Development Fund.
- 6-51-1106. Funding from the Federal Adult Basic Education Fund.

A.C.R.C. Notes. Acts 2017, No. 636, § 2, as amended by Acts 2017, No. 1091, § 29, provided:

"(a) The General Assembly finds that:

"(1) Significant changes in the day-to-day operations of Crowley's Ridge Technical Institute before the effective date of a merger of Crowley's Ridge Technical Institute to East Arkansas Community College under § 6-51-1101 may impede the ability of Crowley's Ridge Technical Institute to merge seamlessly into East Arkansas Community College; and

"(2) Additional guidance and restrictions are necessary to assure a smooth transition to the new institutional structure of East Arkansas Community College provided for by this act.

"(b) Except as provided in subsection (c) of this section, upon the vote of the Board of Directors of Crowley's Ridge Technical Institute to merge with East Arkansas Community College under § 6-51-1101(a)(1)(A) and before the effective date of a merger under § 6-51-1101(a)(2), Crowley's Ridge Technical Institute shall not:

"(1) Change its policies or procedures;

"(2) Terminate an employee of Crowley's Ridge Technical Institute;

"(3) Transfer an employee of Crowley's Ridge Technical Institute to a different position;

"(4) Hire a new employee of Crowley's Ridge Technical Institute; or

"(5) Destroy, mutilate, or alter documents, records, or other property maintained by Crowley's Ridge Technical Institute or its employees unless the destruction, mutilation, or alteration is made in the normal course of business and the nature of and reason for the destruction, mutilation, or alteration are recorded.

"(c) Upon the approval of a merger of Crowley's Ridge Technical Institute and East Arkansas Community College under § 6-51-1101(a)(1)(C) and before the effective date of a merger under § 6-51-1101(a)(2), the Board of Directors of East Arkansas Community College shall designate an individual to assume administration of Crowley's Ridge Technical Institute.

"(d) If Crowley's Ridge Technical Institute determines that performance of one

(1) or more of the actions prohibited in subsection (b) of this section are necessary to appropriately perform the duties or functions of Crowley's Ridge Technical Institute:

"(1) The Technical Institute Director or the Interim Technical Institute Director of Crowley's Ridge Technical Institute may request that the designee under subsection (c) of this section permit performance of the action; and

"(2) The designee under subsection (c) of this section may grant or deny permission to perform the requested action.

"(e) Upon the approval of a merger of Crowley's Ridge Technical Institute and East Arkansas Community College under § 6-51-1101(a)(1)(C) and before the effective date of a merger under § 6-51-1101(a)(2), Crowley's Ridge Technical Institute shall provide to the designee under subsection (c) of this section any document, record, testimony, explanation, or other information maintained by Crowley's Ridge Technical Institute or its employees upon the request of the designee.

"(f) Employees covered under Act 2017, No. 94 § 1 shall not receive a salary increase before January 1, 2018, including without limitation salary increases associated with the implementation of the new pay plan for state employees under §§ 21-5-209 and 21-5-211 regardless of whether an employee is below the minimum salary of his or her grade under the new pay plan."

"(f) Employees covered under Act 2017, No. 94 § 1 shall not receive a salary increase before January 1, 2018, including without limitation salary increases associated with the implementation of the new pay plan for state employees under §§ 21-5-209 and 21-5-211 regardless of whether an employee is below the minimum salary of his or her grade under the new pay plan."

6-51-1101. Merger.

(a)(1) This subchapter shall govern the merger of Crowley's Ridge Technical Institute and East Arkansas Community College if:

(A) The Board of Directors of Crowley's Ridge Technical Institute votes to merge with East Arkansas Community College;

(B) The Board of Directors of East Arkansas Community College votes to accept the merger; and

(C) The merger is approved under § 6-53-401.

(2)(A)(i) When voting to accept a merger under subdivision (a)(1)(B) of this section, the Board of Directors of East Arkansas Community College shall designate a date for the merger to become effective.

(ii) The Board of Directors of East Arkansas Community College shall consult the Board of Directors of Crowley's Ridge Technical Institute in determining the date under subdivision (a)(2)(A)(i) of this section.

(B) If a merger of Crowley's Ridge Technical Institute and East Arkansas Community College is approved under § 6-53-401, the merger shall become effective on the date designated under subdivision (a)(2)(A)(i) of this section.

(b) On the effective date of a merger under subdivision (a)(2) of this section, all statutory authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting or purchasing, of Crowley's Ridge Technical Institute shall be transferred to East Arkansas Community College.

History. Acts 2017, No. 636, § 1.

A.C.R.C. Notes. Acts 2017, No. 636, § 4, provided:

"(a)(1) Within two hundred ten (210) days of the effective date of a merger

under § 6-51-1101(a)(2), active employees of Crowley's Ridge Technical Institute on the effective date of a merger under § 6-51-1101(a)(2) who become employees of East Arkansas Community College may

make a one-time choice between:

“(A)(i) The health insurance plan adopted by the State and Public School Life and Health Insurance Board for state employees; or

“(ii) The East Arkansas Community College health insurance plan; and

“(B)(i) Remaining in his or her same retirement system under the same conditions then provided by law or as may later be provided by law; or

“(ii) The East Arkansas Community College retirement system plan.

“(b) The Board of Directors of East Arkansas Community College shall promul-

gate rules establishing the procedure for employees to exercise benefit options under subsection (a) of this section.”

Effective Dates. Acts 2017, No. 636, § 6, provided:

“(a) Section 3 of this act [which amends Acts 2017, No. 94, § 1] shall:

“(1) Become effective on the effective date of a merger under § 6-51-1101(a)(2); and

“(2) Expire on June 30, 2018.

“(b) Section 3 of this act shall not become effective if the effective date under subdivision (a)(1) of this section occurs after June 30, 2018.”

6-51-1102. Board of directors.

On the effective date of a merger under § 6-51-1101(a)(2):

(1) The Board of Directors of Crowley's Ridge Technical Institute shall be abolished; and

(2) The Board of Directors of East Arkansas Community College shall assume the powers and duties of the Board of Directors of Crowley's Ridge Technical Institute.

History. Acts 2017, No. 636, § 1.

6-51-1103. Purchasing.

(a) Upon the vote of the Board of Directors of Crowley's Ridge Technical Institute to merge with East Arkansas Community College under § 6-51-1101(a)(1)(A) and before the effective date of a merger under § 6-51-1101(a)(2):

(1) Purchases by Crowley's Ridge Technical Institute shall be made under the Arkansas Procurement Law, § 19-11-201 et seq.; and

(2) Purchases by East Arkansas Community College may continue to be made under procedures that were applicable to East Arkansas Community College.

(b) This section shall not apply if a merger is not subsequently approved under § 6-51-1101(a).

History. Acts 2017, No. 636, § 1.

6-51-1104. Transfer of assets, obligations, records, personnel, property, unexpended balances, and legal authority.

Beginning on the effective date of a merger under § 6-51-1101(a)(2):

(1) All property and other rights, claims, and assets of Crowley's Ridge Technical Institute shall be transferred to East Arkansas Community College;

(2) All obligations of Crowley's Ridge Technical Institute shall be obligations of East Arkansas Community College;

- (3)(A) Except as provided in subdivision (3)(B) of this section, all records, personnel, property, unexpended balances, and legal authority shall be transferred from Crowley’s Ridge Technical Institute to East Arkansas Community College.
- (B) If applicable, the personnel transferred from Crowley’s Ridge Technical Institute to East Arkansas Community College shall comply with Acts 2017, No. 94, § 1, as amended by this subchapter; and
- (4) All cash fund balances of Crowley’s Ridge Technical Institute transferred to East Arkansas Community College shall be used for the operation, support, and improvement of occupational, vocational, technical, and workforce development programs of East Arkansas Community College.

History. Acts 2017, No. 636, § 1.

6-51-1105. Funding from the Work Force 2000 Development Fund.

Beginning on the effective date of a merger under § 6-51-1101(a)(2), funding from the Work Force 2000 Development Fund, which would have been provided to Crowley’s Ridge Technical Institute, shall be provided to East Arkansas Community College to fund workforce development, vocational, occupational, and training programs offered by East Arkansas Community College.

History. Acts 2017, No. 636, § 1.

6-51-1106. Funding from the Federal Adult Basic Education Fund.

Beginning on the effective date of a merger under § 6-51-1101(a)(2), funding from the Federal Adult Basic Education Fund, which would have been provided to Crowley’s Ridge Technical Institute, shall be provided to East Arkansas Community College.

History. Acts 2017, No. 636, § 1.

CHAPTER 52
VOCATIONAL AND TECHNICAL TRAINING

SUBCHAPTER.

- 1. ARKANSAS REHABILITATION SERVICES.
- 2. APPRENTICESHIP TRAINING PROGRAMS.

SUBCHAPTER 1 — ARKANSAS REHABILITATION SERVICES

SECTION.

6-52-101. Arkansas Rehabilitation Services.

SECTION.

6-52-102. Transfer of authority, property, etc.

SECTION.

6-52-103. Powers and duties.

6-52-104. Eligibility for retirement systems.

SECTION.

6-52-105. Office facilities.

A.C.R.C. Notes. Acts 2016, No. 194, § 24, provided: "As referenced in Section 1(B) of Act 653 of 2013, and Section 3(c) of Act 1518 and 1519 of 2013, the authorized funding for Pulaski Technical College for renovation, maintenance, critical maintenance, equipment, security enhancements and modifications to assure compliance with the Americans With Disabilities Act (ADA) at the Little Rock — West site, shall be deemed to also include or for renovation, maintenance, critical maintenance, equipment, security enhancements and modifications to assure compliance with the Americans With Disabilities Act (ADA) campus-wide."

Cross References. Rehabilitation Act of Arkansas, § 20-79-201 et seq.

Effective Dates. Acts 1993, No. 574, § 13: July 1, 1993: Emergency clause provided: "It is hereby found and determined by the General Assembly that the transfer of the Division of Rehabilitation Services of the Department of Human Services to the Arkansas Rehabilitation Services of the State Board of the Vocational Education, Division of Vocational and Technical Education will promote the improvement of rehabilitation services to the citizens of this state, that the efficient operation of state government will be promoted by

providing the transfer and shall be effective at the beginning of the next fiscal year. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1993."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-52-101. Arkansas Rehabilitation Services.

(a) There is created Arkansas Rehabilitation Services as an entity within the Division of Workforce Services.

(b) The policy and scope of Arkansas Rehabilitation Services shall be to provide increased employment of individuals with disabilities through the provision of individualized training, independent living services, educational and support services, and meaningful opportunities for employment in integrated work settings to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society.

(c) Pursuant to such policy, rehabilitation services shall be provided to citizens throughout the state, and the rehabilitation plan adopted

pursuant to this subchapter shall be in effect in all political subdivisions of the state.

History. Acts 1993, No. 574, §§ 1, 2; 2019, No. 910, § 144.

Amendments. The 2019 amendment rewrote (a).

6-52-102. Transfer of authority, property, etc.

(a) All authorities and responsibilities defined in the Rehabilitation Act of Arkansas, § 20-79-201 et seq., shall be administered by Arkansas Rehabilitation Services under the direction of the Division of Workforce Services, except those transferred to the Division of State Services for the Blind by § 25-10-201 et seq.

(b) Any and all statutory authority, powers, duties, functions, records, authorized positions, property, unexpended balances of appropriations, allocations, or other funds transferred from the Division of Rehabilitation Services to the Department of Human Services by § 25-10-102 et seq. are hereby transferred to Arkansas Rehabilitation Services.

History. Acts 1993, No. 574, §§ 3, 6; 2019, No. 910, § 145.

Arkansas" and substituted "Division of Workforce Services" for "State Board of Career Education"; and made stylistic changes.

Amendments. The 2019 amendment, in (a), inserted "the Rehabilitation Act of

6-52-103. Powers and duties.

The Arkansas Workforce Development Board, through Arkansas Rehabilitation Services, shall provide the rehabilitation services authorized by this subchapter to eligible individuals with disabilities and those who can benefit from independent living services, determined by the agency to be eligible therefor, and, in carrying out the purposes of this subchapter, Arkansas Rehabilitation Services is authorized, among other things:

(1) To be the sole state agency to supervise and administer the rehabilitation services authorized by this subchapter except such part or parts as may be administered by a local agency in a political subdivision of the state, in which case Arkansas Rehabilitation Services shall be the sole agency to supervise such local agency in the administration of such part or parts; and

(2) To conduct research and compile statistics relative to the provision of services or the need of services of individuals with disabilities.

History. Acts 1993, No. 574, § 5; 2019, No. 910, § 146.

substituted "Arkansas Workforce Development Board" for "State Board of Career Education"; and made stylistic changes.

Amendments. The 2019 amendment

6-52-104. Eligibility for retirement systems.

All employees of the Arkansas Rehabilitation Services as of July 1, 1993, shall be eligible for membership in the Arkansas Public Employ-

ees' Retirement System, Arkansas Teacher Retirement System, or alternate retirement systems. Any such employee who desires to change retirement systems must do so within ninety (90) calendar days after July 1, 1993.

History. Acts 1993, No. 574, § 7.

6-52-105. Office facilities.

The Building Authority Division shall ensure that all offices of the Arkansas Rehabilitation Services are exemplary models of accessibility and conform to the ADA Standards for Accessible Design under the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.

History. Acts 1993, No. 574, § 9.

SUBCHAPTER 2 — APPRENTICESHIP TRAINING PROGRAMS

SECTION.

- 6-52-201. Definitions.
- 6-52-202. Applicability.
- 6-52-203. Rules.
- 6-52-204. Arkansas Apprenticeship Coordination Steering Committee.
- 6-52-205. Arkansas Apprenticeship Coordination Steering Committee — Duties.

SECTION.

- 6-52-206. Recommendations.
- 6-52-207. Training programs generally.
- 6-52-208. Duties of apprenticeship program sponsors.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-52-201. Definitions.

In this subchapter:

(1) "Apprenticeship training program" means a training program that provides on-the-job training, supplementary instruction, or related instruction in a trade or occupation that has been certified as an apprenticeable occupation by the United States Office of Apprenticeship;

(2)(A) “Pre-apprenticeship” means programs that provide instruction or training to increase math, literacy, and other vocational and prevocational skills needed to enter a registered apprenticeship program.

(B) “Pre-apprenticeship” programs are not:

(i) Registered with the United States Department of Labor during the term of the pre-apprenticeship training; or

(ii) Federally vetted, but a high-quality pre-apprenticeship should have a minimum of one (1) registered apprenticeship partner or a strong relationship with at least one (1) apprenticeship program, feature training and curriculum that aligns with that program, and include a wide range of support services designed specifically to help participants succeed;

(3) “Program sponsor” means any person, association, committee, business, or organization operating an apprenticeship program and in whose name the program is registered or is in the process of registration by the United States Office of Apprenticeship;

(4) “Related instruction” means organized off-the-job instruction in theoretical or technical subjects required for the completion of an apprenticeship program for a particular apprenticeable trade;

(5) “Supplementary instruction” means a course of instruction for persons employed as journeymen craftsmen in an apprenticeable trade that is designed to provide new skills or upgrade current skills; and

(6) “Youth apprenticeship” means a registered apprenticeship program that has been validated by the United States Department of Labor or a state apprenticeship agency serving individuals between sixteen (16) and twenty-four (24) years of age and is sponsored by employers, labor management organizations, or other organizations.

History. Acts 1989, No. 684, § 1; 2019, No. 910, § 1927; 2021, No. 647, § 3.

Amendments. The 2019 amendment repealed the definition for “Vo-Tech”.

The 2021 amendment added the definitions for “Pre-apprenticeship” and “Youth apprenticeship”; deleted the definitions

for “BAT”, “Coordination committee”, and “Preparatory instruction”; redesignated the remaining definitions accordingly; in (1), deleted “preparatory instruction” preceding “supplementary” and inserted “or occupation”; and inserted “business” in (3).

6-52-202. Applicability.

The provisions of this subchapter apply only to those apprenticeship training programs which receive state funds pursuant to the provisions of § 6-52-207.

History. Acts 1989, No. 684, § 9.

6-52-203. Rules.

The Office of Skills Development and the Arkansas Apprenticeship Coordination Steering Committee shall promulgate rules necessary to implement the provisions of this subchapter.

History. Acts 1989, No. 684, § 7; 2019, No. 910, § 147; 2021, No. 647, § 4.

Amendments. The 2019 amendment substituted "Office of Skills Development" for "Department of Career Education".

The 2021 amendment substituted "Arkansas Apprenticeship Coordination Steering Committee" for "State Apprenticeship Coordination Steering Committee".

6-52-204. Arkansas Apprenticeship Coordination Steering Committee.

(a)(1) The Governor shall appoint an Arkansas Apprenticeship Coordination Steering Committee composed of members with the following qualifications:

(A) One (1) member representing employer organizations;

(B) One (1) member representing labor unions or bargaining agents for members of apprenticeable trades;

(C) One (1) member representing the minority and female workforce who have knowledge of apprenticeship and are familiar with the needs of vocational and technical education;

(D) Two (2) members who teach or immediately supervise supplementary instruction or related instruction courses;

(E) Three (3) members representing employers who are actively utilizing registered apprenticeship who have knowledge of apprenticeship and are familiar with the needs of vocational and technical education;

(F) One (1) member representing the Division of Career and Technical Education who has knowledge of apprenticeship and is familiar with the needs of vocational and technical education;

(G) One (1) member representing a state supported two-year or four-year institution of higher education who has knowledge of apprenticeship and is familiar with the needs of vocational and technical education;

(H) One (1) member representing the Arkansas Workforce Innovation and Opportunity Act, § 15-4-3701 et seq., workforce system who has knowledge of apprenticeship and is familiar with the needs of vocational and technical education; and

(I) One (1) member representing the Office of Skills Development.

(2) Members of the committee shall serve terms of four (4) years.

(3) Vacancies shall be filled for the unexpired portion of a term vacated.

(4) The Governor shall consult the Office of Skills Development before making an appointment under this subsection.

(5) Appointments made by the Governor under this subsection shall be subject to confirmation by the Senate.

(b) Advisory members of the committee shall include the following:

(1) Two (2) persons designated by the Office of Skills Development; and

(2) One (1) person designated by and representing the United States Office of Apprenticeship.

History. Acts 1989, No. 684, § 4; 1999, No. 1323, § 44; 2015, No. 1100, § 5; 2017, No. 540, § 5; 2019, No. 910, §§ 148, 149; 2021, No. 467, §§ 8-10; 2021, No. 647, § 5.

A.C.R.C. Notes. Pursuant to Acts 2021, No. 467, § 13, the amendments to subdivisions (b)(2) and (c)(1) of this section by Acts 2021, No. 467, §§ 9, 10, are superseded by the repeal of subdivision (b)(2) and subsection (c) by Acts 2021, No. 647, § 5.

Acts 2021, No. 467, § 13, provided: “CONSTRUCTION AND LEGISLATIVE INTENT. It is the intent of the General Assembly that:

“(1) The enactment and adoption of this act shall not expressly or impliedly repeal an act passed during the regular session of the Ninety-Third General Assembly;

“(2) To the extent that a conflict exists between an act of the regular session of the Ninety-Third General Assembly and this act:

“(A) The act of the regular session of the Ninety-Third General Assembly shall be treated as a subsequent act passed by the General Assembly for the purposes of:

“(i) Giving the act of the regular session of the Ninety-Third General Assembly its full force and effect; and

“(ii) Amending or repealing the appropriate parts of the Arkansas Code of 1987; and

“(B) Section 1-2-107 shall not apply; and

“(3) This act shall make only technical, not substantive, changes to the Arkansas Code of 1987.”

Amendments. The 2017 amendment substituted “Two (2) members” for “Five (5) persons” throughout (a)(1); and deleted “and the United States Department of Labor, Employment and Training Administration, Office of Apprenticeship” following “Career Education” in (a)(4).

The 2019 amendment substituted “Office of Skills Development” for “Department of Career Education” in (b)(1) and (c)(1); and substituted “Division of Labor” for “Department of Labor” in (b)(2).

The 2021 amendment by No. 467 substituted “Office of Skills Development” for “Department of Career Education” in (a)(4), (b)(1), and (c)(1); and substituted “Division of Labor” for “Department of Labor” in (b)(2) (confirming 2019 codification changes).

The 2021 amendment by No. 647 substituted “Arkansas Apprenticeship Coordination Steering Committee” for “State Apprenticeship Coordination Steering Committee” in the section heading; and rewrote the section.

6-52-205. Arkansas Apprenticeship Coordination Steering Committee — Duties.

(a) The Arkansas Apprenticeship Coordination Steering Committee shall recommend to the Career Education and Workforce Development Board a statewide plan for the development of a comprehensive program of apprenticeship training that shall include but not be limited to the following:

(1) Formulas and administrative procedures to be used in requesting appropriations of state funds for apprenticeship training and apprenticeship expansion efforts;

(2) Forms, formulas, and administrative procedures to be used in distributing available funds to apprenticeship training programs and apprenticeship expansion efforts; and

(3) The content and method of the public notice required by this subchapter.

(b)(1) The Office of Skills Development shall furnish the committee with the current data necessary to develop the plan.

(2) All state boards and agencies shall cooperate with the committee and shall furnish information and material on request.

(c) Pursuant to this section, the reporting procedures shall be included in the state plan for apprenticeship.

History. Acts 1989, No. 684, §§ 5, 6; 2019, No. 910, § 150; 2021, No. 467, § 11; 2021, No. 647, § 6.

Amendments. The 2019 amendment substituted “Office of Skills Development” for “Department of Career Education” in (b)(1).

The 2021 amendment by No. 467 substituted “Career Education and Workforce Development Board” for “State Board of Career Education” in the introductory language of (a); and substituted “Office of Skills Development” for “Department of

Career Education” in (b)(1) (confirming 2019 codification changes).

The 2021 amendment by No. 647 substituted “Arkansas Apprenticeship Coordination Steering Committee” for “State Apprenticeship Coordination Steering Committee” in the section heading and in (a); added “and apprenticeship expansion efforts” in (a)(1) and (a)(2); substituted “committee” for “coordination committee” in (b)(1) and (b)(2); and made a stylistic change.

6-52-206. Recommendations.

(a) Recommendations of the Arkansas Apprenticeship Coordination Steering Committee submitted to the Office of Skills Development must be acted on and either accepted or rejected.

(b) A recommendation which is rejected must be returned immediately to the committee, accompanied by written notice of the reasons for rejecting the recommendation.

History. Acts 1989, No. 684, § 8; 2019, No. 910, § 151; 2021, No. 647, § 7.

Amendments. The 2019 amendment substituted “Office of Skills Development” for “Department of Career Education” in (a).

The 2021 amendment substituted “Arkansas Apprenticeship Coordination Steering Committee” for “State Apprenticeship Coordination Steering Committee” in (a); and substituted “committee” for “coordination committee” in (b).

6-52-207. Training programs generally.

(a) Under this subchapter, the Director of the Office of Skills Development shall allocate state funds for the support of apprenticeship training programs that meet the criteria stated in this subchapter.

(b) An apprenticeship training program may be cosponsored by a public school district, an education service cooperative, a state postsecondary institution, a vocational-technical school, or a two-year community college pursuant to a contract between the district or institution and an apprenticeship program sponsor.

(c) An apprenticeship training program shall be under the direction of an apprenticeship coordinator appointed by an apprenticeship program sponsor who shall perform the duties stated in § 6-52-208.

(d)(1) Each apprentice participating in an apprenticeship training program shall be given a written apprenticeship agreement by an apprenticeship program sponsor stating the standards and conditions of his or her employment and training.

(2) The apprenticeship agreements are furnished by the United States Office of Apprenticeship.

(e)(1) An apprentice shall not be charged tuition or fees by a public school district or state postsecondary institution.

(2)(A) However, an administrative fee may be charged to cover the costs of processing the records of an apprentice.

(B) The fee allowed under subdivision (e)(2)(A) of this section shall not exceed twenty-five dollars (\$25.00) for each course in which the apprentice is enrolled.

(3) The apprentice or an apprenticeship program sponsor may be required to furnish books and special equipment.

(f)(1) Funding for an apprenticeship training program, in addition to any other money available, shall be based on:

(A) Allocation of funds to an apprenticeship program sponsor by the Office of Skills Development, as referred to in subsection (a) of this section; or

(B) Terms of a contract between an apprenticeship program sponsor and a cosponsor, as referred to in subsection (b) of this section.

(2) An apprenticeship program sponsor may charge an apprentice or the employer of the apprentice tuition and fees to cover administrative costs incurred while the apprentice is registered with the apprenticeship program sponsor.

(g) The terms of the contract referred to in subsection (b) of this section shall require without limitation the following in order to effectively administer the apprenticeship training program in a manner consistent with the public's need for skilled workers and the apprentice's need for marketable skills in apprenticeable occupations:

(1) Adequate facilities;

(2) Personnel; and

(3) Resources.

(h) An apprenticeship training program shall be registered with the United States Office of Apprenticeship and the Office of Skills Development.

History. Acts 1989, No. 684, § 2; 2007, No. 617, § 35; 2019, No. 369, § 3; 2019, No. 910, §§ 152, 153.

Amendments. The 2019 amendment by No. 369 substituted "Under" for "Pursuant to the provisions of" in (a); substituted "An apprenticeship training program may" for "A program must" in (b); substituted "An apprenticeship training program shall" for "A program must" in (c), (d)(1), and (h); redesignated (d) as (d)(1) and (d)(2); rewrote (e) and (f)(1); in

(f)(2), substituted "An apprenticeship program" for "The program", and inserted "apprenticeship"; rewrote (g); inserted "of the United States Department of Labor" following "Office of Apprenticeship" in (h); and made stylistic changes.

The 2019 amendment by No. 910 substituted "Office of Skills Development" for "Department of Career Education" in (a) and (h); and substituted "United States Office of Apprenticeship" for "Office of Apprenticeship" in (h).

6-52-208. Duties of apprenticeship program sponsors.

(a) The apprenticeship program sponsor of each apprenticeship training program shall:

(1) Establish standards and goals for supplementary instruction and related instruction for apprentices in the program;

(2) Establish rules governing the on-the-job training and other instruction for apprentices in the program;

(3) Plan and organize instructional materials designed to provide technical and theoretical knowledge and basic skills required by apprentices in the program;

(4) Recommend qualified instructors for the program;

(5) Monitor and evaluate the performance and progress of each apprentice in the program and the program as a whole; and

(6) Interview applicants and select those most qualified for entrance into the program.

(b) A program must provide for the keeping of records of the on-the-job training and progress of each apprentice.

(c) A program must require instructors to maintain recommended qualifications.

(d) A program must perform any other duties which promote the goals of individual apprentices and of the program as a whole.

(e)(1) An apprenticeship program sponsor shall provide the names of the employers who enroll apprentices into the program to the Office of Skills Development on or before September 1 of each fiscal year.

(2) The office shall not publish the names of the employers who have enrolled apprentices, nor use the employer names for a purpose other than program administration and research, unless approved by the employer.

(3) The names of employers provided by apprenticeship program sponsors under this subsection shall be exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq.

History. Acts 1989, No. 684, § 3; 2021, No. 647, §§ 8, 9.

Amendments. The 2021 amendment deleted "preparatory instruction" preceding "supplementary instruction" in (a)(1); and added (e).

CHAPTER 53

TWO-YEAR POSTSECONDARY EDUCATION REORGANIZATION ACT OF 1991

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS TECHNICAL AND COMMUNITY COLLEGE SYSTEM.
3. ADMINISTRATION.
4. CONVERSIONS AND CONSOLIDATIONS.
5. GRANTS FOR TECH-PREP EDUCATION.
6. TECHNICAL COLLEGE DISTRICTS.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

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6-53-106. Licensed blind vendors.
6-53-107. Effect of conversion on employ-
ees and directors.

Effective Dates. Acts 1991, No. 1244, § 43: Apr. 17, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the restructuring of the delivery system of adult education and vocational education in this state is necessary to provide higher quality educational programs which are accessible by all segments of the population in this state; that recent studies have shown that in the year 2000, workers must have a minimum of fourteen (14) years education to function in the work force; that the state is in desperate need of training, retraining and upgrading the work force; that this act will provide a means to establish more institutions working closely with business and industry to provide every citizen with an opportunity to participate in vocational-technical training or college transfer programs within a reasonable driving distance of their homes; that it is necessary for this act to become effective immediately so needed changes can be made prior to the date the institutions contained herein are transferred to the new system. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 854, § 7: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that the restructuring of the delivery system of adult education and vocational education in this state authorized by Act 1244 of 1991 is accomplished in the area of providing for the presidents of the various technical colleges and that it is necessary for this act to become effective immediately to continue the efficient operation of the technical and community college system in Arkansas. Therefore, an emergency is hereby found to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 1114, § 18: May 1, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act abolishes the State Board of Higher Education and replaces the board with the Arkansas Higher Education Coordinating Board; and that to provide for an efficient transition and to allow the Governor a sufficient time to make appointments, this act shall become effective May 1, 1997. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on May 1, 1997."

Acts 2015, No. 955, § 5: Apr. 2, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there are pending mergers involving community colleges; that this act is necessary to facilitate the pending mergers of community colleges; and that this act is immediately necessary because the merger will be finalized before this act would become effective without an emergency clause. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2017, No. 71, § 3: Jan. 30, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that clearly established procedures are a necessary component of a successful merger of a technical college with a four-year institution of higher education or a university system; that clarity is needed in the law regarding the general authority of the board of trustees and the respective roles of a governing

board and a board of visitors when a technical college merges with a four-year institution of higher education or a university system; and that this act is immediately necessary to ensure that mergers of a technical college with a four-year institution of higher education or a university system can proceed without confusion as to the role of the respective boards that would otherwise cause harm to the merging institutions. Therefore, an emer-

gency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-53-101. Title.

This chapter shall be known as and may be cited as the "Two-Year Postsecondary Education Reorganization Act of 1991".

History. Acts 1991, No. 1244, § 1.

6-53-102. Purpose.

(a) The purpose of this chapter is to serve as a legislative charter under the authority granted by Arkansas Constitution, Amendment 52, for the establishment, organization, and administration of a system of educational institutions throughout the state offering courses of instruction in:

- (1) Technical programs;
- (2) Vocational programs;
- (3) Adult education programs;
- (4) Industry training; and
- (5) Two-year college transfer programs.

(b) The system established under this chapter shall provide educational programs which are:

(1) Easily accessible by all segments of the population so that they may benefit from training, retraining, or upgraded training for employment; and

(2) Highly responsive to individuals needing to achieve basic, general, and specialized education to meet the needs of the workplace.

(c) The Arkansas Higher Education Coordinating Board shall serve as the coordinating body of the system in order to assure the orderly and effective development of the publicly supported institutions within the system.

History. Acts 1991, No. 1244, § 2;
1997, No. 1114, § 5.

6-53-103. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) “Branch campus of the community college” means an institution with facilities located apart from the community college campus but within the community college district;

(2)(A) “Capital outlay expense” means those funds devoted to or required for:

(i) The acquisition and improvement of land;

(ii) The acquisition, construction, remodeling, alteration, addition, or enlargement of buildings or other structures; and

(iii) The initial purchase of library holdings, furniture, apparatuses, and other equipment for a new or expanded facility as defined by the Arkansas Higher Education Coordinating Board.

(B) “Capital outlay expense” excludes those expenses used for maintenance and replacement of equipment and furniture;

(3) “Community college” means an institution of higher education established or to be established under the provisions of this chapter dedicated primarily to the educational needs of the service area and offering a comprehensive program, including, but without limitation, vocational, trade, and technical specialty courses and programs, college transfer courses, and courses in general adult education;

(4) “Division” means the Division of Higher Education;

(5) “District” means the geographic area located within one (1) or more counties or cities or any described combination thereof or any described area which may be in one (1) or more counties or parts of counties but within the same service area which is directly responsible for the local financial support and local administration of an institution located within its service area;

(6) “Existing community college” means a community college established in accordance with the provisions of and presently operating in conformity with Arkansas Constitution, Amendment 52, and §§ 6-61-101 — 6-61-103, §§ 6-61-201 — 6-61-209, §§ 6-61-212 — 6-61-216, §§ 6-61-301 — 6-61-305, § 6-61-401, § 6-61-402, §§ 6-61-501 — 6-61-524, and §§ 6-61-601 — 6-61-603;

(7)(A) “Local board” means the governing body of a technical college or community college.

(B) A local board for a community college or a technical college may be the board of trustees of a four-year institution of higher education or the board of trustees of a university system in the case of a merger under § 6-61-520(e) or § 6-53-302(k);

(8)(A) “Operating expense” means those educational and general funds devoted to or required for the regular or ordinary expense of the college, including administrative, maintenance, and salary expenses but excluding capital outlay expenses, student activity expenses, and expenses for intercollegiate athletics.

(B) “Operating expense” includes maintenance and replacement of furniture and equipment, including motor vehicles;

(9) “Satellite campus” means an institution or off-campus facility of a community college located within a service area of a technical or community college but not located within a community college district;

(10)(A) "Service area" means the geographic area assigned by the Arkansas Higher Education Coordinating Board as the area to be served by the institution located within its borders.

(B) Each county in the state shall be assigned to at least one (1) service area;

(11) "State board", "board", or "full board" means the Arkansas Higher Education Coordinating Board;

(12) "System institution" means a technical college or community college; and

(13) "Technical college" means an institution of higher education established under this chapter dedicated primarily to the educational needs of the service area and offering a comprehensive program, including, but without limitation, vocational, trade, and technical specialty courses and programs, courses in general adult education, and courses comparable in content and quality to freshman and sophomore courses which may carry transfer credit to a four-year institution in a chosen course of study.

History. Acts 1991, No. 1244, § 3; 1995, No. 576, § 1; 1997, No. 1114, § 6; 2015, No. 955, § 1; 2017, No. 71, § 1. **Amendments.** The 2017 amendment, in (7)(B), inserted "or a technical college" and added "or § 6-53-302(k)" at the end.

6-53-104. Effect of chapter on existing law.

(a) The procedures and deadlines established in this chapter shall, for the purposes of this chapter, be in lieu of and supersede those set forth in existing laws of this state with respect to the establishment, organization, and administration of vocational-technical postsecondary institutions and community colleges.

(b) Existing laws of this state shall for the purposes of this chapter apply only in those situations which are not specifically provided for in this chapter and, when applied, shall be consistent, insofar as possible, with the purpose, procedures, and deadlines contained in this chapter.

History. Acts 1991, No. 1244, § 37.

6-53-105. Withdrawal or withholding of state funding.

The Arkansas Higher Education Coordinating Board may approve the withdrawal or withholding of state financial and administrative support of any institution in the system under the following conditions:

(1) If an institution fails or refuses to maintain prescribed standards of administration or instruction; or

(2) If an institution fails to achieve accreditation within the time limits prescribed by this chapter.

History. Acts 1991, No. 1244, § 25; 1995, No. 854, § 2.

6-53-106. Licensed blind vendors.

(a) Section 22-3-1301 et seq. grants preference to trained blind individuals in the operation of vending facilities on certain state-owned or leased property. Further, such vending facilities provide productive employment to qualified blind persons resulting in earned income which returns tax dollars to the state. Therefore, it is the specific intent of this section to continue such vending preferences allowed under § 22-3-1301 et seq. with all rights and responsibilities required therein at all vocational-technical schools where they now operate.

(b) Any institutional consolidation resulting from this chapter shall include plans for continuation of vending facilities at the preceding locations subject to § 22-3-1301 et seq.

History. Acts 1991, No. 1244, § 38.

6-53-107. Effect of conversion on employees and directors.

(a) All employees who are employed by state-supported postsecondary vocational-technical schools converting to an institution under the technical and community college system or those employees of a two-year branch campus of a four-year institution converting to a technical or community college shall become employees of the technical or community college, branch campus of the community college, or satellite campus of the community college under this chapter and shall continue their terms of employment and shall have all rights and benefits of employment, including retirement benefits, that they had when employed by the state-supported postsecondary vocational-technical schools or by the two-year branch campus of the four-year institution.

(b) All directors of state-supported postsecondary vocational-technical schools shall continue their terms of employment and shall have all rights and benefits of employment, including retirement benefits, under this chapter and shall remain directors of the institutions resulting from the merger, consolidation, or expansion under this chapter.

(c) Any abolishment of a position in an institution operated as a former state-supported postsecondary vocational-technical school by an institution within the system shall require prior approval of the state board during the five (5) years following the effective date of the merger, consolidation, or expansion.

(d) Nothing in this section shall be interpreted to provide any employee described herein with any employment rights or benefits greater than those employment rights or benefits to which all state employees are entitled.

History. Acts 1991, No. 1244, § 32.

SUBCHAPTER 2 — ARKANSAS TECHNICAL AND COMMUNITY COLLEGE SYSTEM

SECTION.

- 6-53-201. System name.
- 6-53-202. [Repealed.]
- 6-53-203. Duties and powers of Arkansas
Higher Education Coordinating Board.
- 6-53-204. [Repealed.]
- 6-53-205. College transfer program approval.

SECTION.

- 6-53-206. Equipment pool.
- 6-53-207. Capital outlays.
- 6-53-208. [Repealed.]
- 6-53-209. Interim accreditation and governance.
- 6-53-210. Transfers to system after July 1, 1991.

Effective Dates. Acts 1991, No. 1244, § 43: Apr. 17, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the restructuring of the delivery system of adult education and vocational education in this state is necessary to provide higher quality educational programs which are accessible by all segments of the population in this state; that recent studies have shown that in the year 2000, workers must have a minimum of fourteen (14) years education to function in the work force; that the state is in desperate need of training, retraining and upgrading the work force; that this act will provide a means to establish more institutions working closely with business and industry to provide every citizen with an opportunity to participate in vocational-technical training or college transfer programs within a reasonable driving distance of their homes; that it is necessary for this act to become effective immediately so needed changes can be made prior to the date the institutions contained herein are transferred to the new system. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 854, § 7: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that the restructuring of the delivery system of adult education and vocational education in this state authorized by Act 1244 of 1991 is accomplished in the area of providing for the presidents of the various technical colleges and that it is necessary for this act to become effective

immediately to continue the efficient operation of the technical and community college system in Arkansas. Therefore, an emergency is hereby found to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 1114, § 18: May 1, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act abolishes the State Board of Higher Education and replaces the board with the Arkansas Higher Education Coordinating Board; and that to provide for an efficient transition and to allow the Governor a sufficient time to make appointments, this act shall become effective May 1, 1997. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on May 1, 1997."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is

declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-53-201. System name.

All two-year institutions and their courses and programs within the jurisdiction of the Arkansas Higher Education Coordinating Board shall be identified and administered as the Arkansas Technical and Community College System.

History. Acts 1991, No. 1244, § 8; 1997, No. 1114, § 7.

6-53-202. [Repealed.]

A.C.R.C. Notes. The repeal of this section by Acts 1997, No. 1114, § 8, superseded the amendment of this section by Acts 1997, No. 540, § 10. The amendment by Acts 1997, No. 540, § 10, updated the section to reflect the new name of the Arkansas Economic Development Com-

mission.

Publisher's Notes. This section, concerning the College Panel of the State Board of Higher Education, was repealed by Acts 1997, No. 1114, § 8. The section was derived from Acts 1991, No. 1244, § 6; 1997, No. 540, § 10.

6-53-203. Duties and powers of Arkansas Higher Education Coordinating Board.

(a) In order to promote a coordinated system of two-year postsecondary education in Arkansas, to provide an effective delivery system for adult education programs, and to assure an orderly and effective development of a system of publicly and locally supported institutions, the Arkansas Higher Education Coordinating Board shall have the following powers and duties:

(1) To function as a coordinating body between the technical and community colleges in the Arkansas Technical and Community College system and the public schools, universities, state colleges, and other educational institutions in Arkansas;

(2) To determine service areas containing all counties within the state and to recommend adoption of such service areas to the full Arkansas Higher Education Coordinating Board, which shall designate which system institution within the service area shall be responsible for fulfillment of the two-year postsecondary educational needs of the service area;

(3)(A) To review, evaluate, and coordinate budget requests for the institutions in the system.

(B)(i) The full Arkansas Higher Education Coordinating Board shall present to the General Assembly and to the Governor prior to each regular session of the General Assembly a single budget report containing the recommendations for separate appropriations to each of the respective institutions.

(ii) The recommendations will be consistent with a comprehensive master plan of two-year postsecondary education in Arkansas adopted by the Arkansas Higher Education Coordinating Board.

(iii) The recommendations, insofar as possible, will be based upon standard techniques of objective measurement of need and unit cost figures arrived at through comparative data secured from the several institutions.

(iv) Specific needs of institutions based upon existing programs and deficiencies will be given consideration;

(4)(A) To develop, in conjunction with the institutions, the Governor, and the Legislative Council, a single set of budget forms which will be utilized by all parties in making requests and recommendations for the funding of two-year postsecondary institutions in the system.

(B) The forms and process will require that the total income and expenditures of each institution must be considered in the request process;

(5) To determine, in coordination with the Legislative Joint Auditing Committee, that state funds are used in conformity with the grants of such funds;

(6) To determine a minimum level for student tuition and fees to be charged by institutions within the system in regard to the funding formula;

(7) To plan, in cooperation with the Career Education and Workforce Development Board, the allocation of federal funds for instructional programs and student services, including funds for vocational and technical education, retraining, adult basic education, and general adult education;

(8) To recommend to the General Assembly the location and priorities for establishment or expansion of institutions or for abolition of institutions; and

(9)(A) To develop a standardized method of calculating the full-time equivalent enrollment for use by each two-year postsecondary institution in this state.

(B) Such calculation shall provide for the inclusion of students attending off-campus programs offered by the institution.

(b) The Arkansas Higher Education Coordinating Board shall develop and maintain short-range and long-range plans for providing current and appropriate occupational and technical training for adults and may solicit information for its planning activities from the State Board of Education, the Division of Workforce Services, any industry training program of the state, any apprenticeship training program of the state, and other state agencies, institutions, and departments.

(c) The Arkansas Higher Education Coordinating Board shall have approval or disapproval authority over all future conversions of state-supported postsecondary vocational-technical institutions to technical colleges and all consolidations of postsecondary vocational-technical institutions with community colleges or four-year institutions or their branches which must be authorized by the General Assembly.

(d) The Arkansas Higher Education Coordinating Board shall recommend and review proposals for the establishment of curricula and for major changes in curricula of institutions within the system. It shall emphasize flexibility in responding to local business and industry needs.

(e)(1) The Arkansas Higher Education Coordinating Board shall define the requirements of appropriate degrees and certificates and authorize the award thereof in the institutions within the system.

(2) The Arkansas Higher Education Coordinating Board shall approve all degree programs at the associate degree level or above at any state-supported postsecondary institution, including those established and administered under § 6-51-701 et seq.

(f) The Arkansas Higher Education Coordinating Board shall cooperate with the board of directors of any school district to encourage the use and sharing of facilities and staff in the offering of secondary vocational programs, including instruction in agricultural subjects, trades, or industrial subjects.

History. Acts 1991, No. 1244, § 7; substituted "Division of Workforce Services" for "Department of Workforce Services" in (b).
1995, No. 854, § 3; 1997, No. 1114, § 9;
2019, No. 910, § 154.

Amendments. The 2019 amendment

CASE NOTES

Cited: Hadley v. North Ark. Cmty. Tech. College, 76 F.3d 1437 (8th Cir. 1996).

6-53-204. [Repealed.]

Publisher's Notes. This section, concerning the Office of Accountability, was repealed by Acts 1999, No. 479, § 1. The section was derived from Acts 1991, No. 1244, § 9; 1997, No. 112, § 14.

6-53-205. College transfer program approval.

(a) The Arkansas Higher Education Coordinating Board shall develop a plan to maximize transfer credits of students from institutions within the Arkansas Technical and Community College system, including the development of a core transfer program for students desiring to obtain a baccalaureate degree after transferring from an institution within the two-year system to the four-year system.

(b) All programs and curricula in the college transfer program shall be subject to the approval or disapproval of the board.

(c) The board shall develop, with the assistance of institutional advisory committees, policies for transfer students from technical and community colleges to four-year institutions.

History. Acts 1991, No. 1244, § 10.

6-53-206. Equipment pool.

The Division of Higher Education, in coordination with the institutions, shall develop an effective means of pooling surplus equipment for redistribution to other institutions. Such equipment pool arrangement may include the crediting of equipment values to the institution for equipment acquired from a source other than the state.

History. Acts 1991, No. 1244, § 11; 2019, No. 910, § 1928.

Amendments. The 2019 amendment

substituted "Division of Higher Education" for "Department of Higher Education" in the first sentence.

6-53-207. Capital outlays.

(a) Unless exempted under the provisions of § 19-4-522, any expenditure of State Treasury funds for capital outlay expenses or construction costs, as set forth in § 19-4-524, of an institution within the Arkansas Technical and Community College system shall be subject to the prior approval of the General Assembly upon the recommendation of the Arkansas Higher Education Coordinating Board.

(b) Except those funds allocated under the Arkansas College Savings Bond Act of 1989, § 6-62-701 et seq., or provided during the 1991-1993 biennium, prior to the withdrawal of state funds from the State Treasury for use in approved capital outlays, the board shall obtain and transmit to the Chief Fiscal Officer of the State a certificate from the chair of the local board of the technical or community college stating that a minimum of fifty percent (50%) of each project cost has been provided by local funds.

(c) No state moneys appropriated for general operating expenses of an institution shall be used for capital outlay expenses.

(d) Capital outlay expenses shall be paid from gifts, grants, profits from auxiliary enterprises, tuition, fees, local millages, and other local funds and may be paid from state funds appropriated for such purposes.

(e) Revenues derived from any local sales and use tax levied under § 26-74-201 et seq., § 26-74-301 et seq., § 26-75-201 et seq., or § 26-75-301 et seq., may be used to finance capital outlay expenses for institutions of higher education.

History. Acts 1991, No. 1244, § 12; 1993, No. 423, § 3.

A.C.R.C. Notes. Pursuant to § 1-2-207, this section is set out above as amended by Acts 1993, No. 423, § 3.

Acts 1993, No. 382, § 1 also amended subsection (d) to read: "Capital outlay

expenses shall be paid from gifts, grants, profits from auxiliary enterprises, local millages, and other local funds, including unexpended cash funds from previous years' general operating budgets and may be paid from state funds appropriated for such purposes."

6-53-208. [Repealed.]

Publisher's Notes. This section, concerning student tuition and fees, was re-

pealed by Acts 1999, No. 1107, § 1. The section was derived from Acts 1991, No.

1244, § 26.

6-53-209. Interim accreditation and governance.

(a) The Arkansas Higher Education Coordinating Board may act as the legal entity, governing board, and receiver of all property for any institution not accredited by an accrediting agency recognized by the United States Department of Education and seeking merger or consolidation with an existing institution of higher education during the interim period when approval of institutional change from an accrediting agency recognized by the United States Department of Education is being sought.

(b) Upon approval by an accrediting agency recognized by the United States Department of Education, all records, personnel, property, unexpended balances, and all legal authority shall pass from the Arkansas Higher Education Coordinating Board to the legal entity governing the newly merged or consolidated institution.

(c) The Arkansas Higher Education Coordinating Board may provide accreditation for a period of up to six (6) years to an institution governed by the Arkansas Higher Education Coordinating Board.

(d)(1) Until the Arkansas Higher Education Coordinating Board approves associate of applied science degrees for the institutions identified in § 6-53-301(a), no change in the educational mission of those institutions is intended or authorized by this chapter.

(2) The Career Education and Workforce Development Board shall show cause why accreditation of an institution should not be continued and provide twelve (12) months' notice of any action to withdraw accreditation of an institution.

(e) A postsecondary vocational-technical school other than those listed in §§ 6-53-301 and 6-53-404 that receives approval from the Arkansas Higher Education Coordinating Board and the General Assembly to begin the process of consolidation or merger with an existing institution of higher education shall be governed by the Arkansas Higher Education Coordinating Board under this section and § 6-53-302(f), (h), and (i) pending approval of the merger or consolidation from an accrediting agency recognized by the United States Department of Education.

(f) If a consolidation plan is not approved by an accrediting agency recognized by the United States Department of Education, § 6-53-301(f) shall apply to the postsecondary vocational-technical school or technical college seeking merger or consolidation with an institution of higher education.

History. Acts 1991, No. 1244, § 18;
2015, No. 865, § 4.

6-53-210. Transfers to system after July 1, 1991.

(a) Following July 1, 1991, any existing postsecondary vocational-technical school transferring to the Arkansas Technical and Community College System shall do so only upon approval by the General Assembly and the recommendation of the Arkansas Higher Education Coordinating Board.

(b) Upon completion of the transfer to the system, the institution shall be subject to the same laws, procedures, and rules as all other institutions under the jurisdiction of the board.

History. Acts 1991, No. 1244, § 35; substituted "and rules" for "rules, and regulations" in (b).
2019, No. 315, § 353.

Amendments. The 2019 amendment

SUBCHAPTER 3 — ADMINISTRATION**SECTION.**

- 6-53-301. Arkansas Technical and Community College System.
- 6-53-302. Local administration — Technical colleges.
- 6-53-303. Institution presidents.
- 6-53-304. Student tuition — Fees.
- 6-53-305. Transportation.

SECTION.

- 6-53-306. Coordination with secondary vocational-technical education and literacy programs.
- 6-53-307. County support of technical colleges.
- 6-53-308. Municipal contracts.

Effective Dates. Acts 1991, No. 1244, § 43: Apr. 17, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the restructuring of the delivery system of adult education and vocational education in this state is necessary to provide higher quality educational programs which are accessible by all segments of the population in this state; that recent studies have shown that in the year 2000, workers must have a minimum of fourteen (14) years education to function in the work force; that the state is in desperate need of training, retraining and upgrading the work force; that this act will provide a means to establish more institutions working closely with business and industry to provide every citizen with an opportunity to participate in vocational-technical training or college transfer programs within a reasonable driving distance of their homes; that it is necessary for this act to become effective immediately so needed changes can be made prior to the date the institutions contained herein are transferred to the new system. Therefore, an

emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1995, No. 854, § 7: July 1, 1995. Emergency clause provided: "It is hereby found and determined by the General Assembly that the restructuring of the delivery system of adult education and vocational education in this state authorized by Act 1244 of 1991 is accomplished in the area of providing for the presidents of the various technical colleges and that it is necessary for this act to become effective immediately to continue the efficient operation of the technical and community college system in Arkansas. Therefore, an emergency is hereby found to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1995."

Acts 1997, No. 481, § 6: Mar. 13, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act is needed to immediately build facilities,

without which education needs and facilities may be jeopardized. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 918, § 5: Mar. 28, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that public institutions of higher education are in desperate need of additional funding; that one method of providing additional funding is through the use of county sales and use taxes; that this act authorizes the use of county sales and use taxes to be used in part for capital improvements to and the maintenance and operations of public institutions of higher education located within the county; and that this act should go into effect as soon as possible in order to provide additional revenues to the institutions of higher education as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1997, No. 1114, § 18: May 1, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act abolishes the State Board of Higher Education and replaces the board with the Arkansas Higher Education Coordinating Board; and that to provide for an efficient transition and to allow the Governor a sufficient time to make appointments, this act shall become effective May 1, 1997. Therefore, an emergency is declared to

exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on May 1, 1997."

Acts 2009, No. 82, § 2: Feb. 9, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that current Arkansas law unfairly limits the possible candidates for appointments to the local boards of trustees of technical colleges and that the law should be revised as soon as possible to increase the pool of candidates for these positions. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) the date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill; (3) If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) the date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2017, No. 71, § 3: Jan. 30, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that clearly established procedures are a necessary component of a successful merger of a technical college with a four-year institution of higher education or a university system;

that clarity is needed in the law regarding the general authority of the board of trustees and the respective roles of a governing board and a board of visitors when a technical college merges with a four-year institution of higher education or a university system; and that this act is immediately necessary to ensure that mergers of a technical college with a four-year institution of higher education or a university system can proceed without confusion as to the role of the respective boards that would otherwise cause harm to the merging institutions. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-53-301. Arkansas Technical and Community College System.

(a)(1) The Arkansas Higher Education Coordinating Board shall designate the following institutions as technical colleges which shall become part of the Arkansas Technical and Community College System under the coordination of the Arkansas Higher Education Coordinating Board:

- (A) Black River Technical College, Pocahontas;
- (B) Arkansas State University Mid-South, West Memphis;
- (C) North Arkansas College, Harrison;
- (D) Ozarka College, Melbourne;
- (E) South Arkansas Community College, El Dorado;
- (F) Southeast Arkansas College, Pine Bluff;
- (G) Cossatot Community College of the University of Arkansas, De Queen;
- (H) University of Arkansas — Pulaski Technical College, North Little Rock;
- (I) University of Arkansas Community College at Batesville, Batesville;
- (J) University of Arkansas Community College at Hope-Texarkana, Hope; and
- (K) University of Arkansas Community College at Morrilton, Morrilton.

(2) None of these institutions shall have the authority to request the Arkansas Higher Education Coordinating Board's approval for associate degree programs before July 1, 1993.

(b) A technical college may be expanded to offer courses of instruction in technical, vocational, and adult education programs and college transfer programs and may, upon a vote of the electorate, create a community college district and, if necessary, impose a millage to convert to a community college.

(c) Until the institution elects to become a community college, the institution shall be known as a technical college.

(d) Upon the appointment of the local board, all records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the state-supported postsecondary vocational-technical institutions shall be transferred to the local board.

(e) The local board shall be responsible for the administration and operation of the institution and shall be further responsible for the provision of services to meet the two-year postsecondary educational needs of those citizens located within the service area of the institution.

(f)(1) Any technical college which fails to achieve higher education institutional accreditation from the Higher Learning Commission within eight (8) years following the date of transfer under subsection (d) of this section shall be abolished by the Arkansas Higher Education Coordinating Board.

(2) All records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the technical college shall be transferred to the Division of Higher Education.

History. Acts 1991, No. 1244, § 19; 1993, No. 423, § 4; 1995, No. 603, § 2; 1997, No. 1114, § 10; 2019, No. 910, § 1929.

A.C.R.C. Notes. The list of institutions in subsection (a) reflects the names before the redesignation under this section and subsequent changes. The following list reflects the current names of these institutions:

- (A) Black River Technical College;
- (B) Cossatot Community College;
- (C) University of Arkansas Community College at Batesville;
- (D) Mid-South Community College;

(E) South Arkansas Community College;

(F) South Arkansas Community College;

(G) University of Arkansas Community College at Morrilton;

(H) Southeast Arkansas College;

(I) Pulaski Technical College;

(J) University of Arkansas Community College at Hope; and

(K) North Arkansas College.

Amendments. The 2019 amendment substituted "Division of Higher Education" for "Department of Higher Education" in (f)(2).

6-53-302. Local administration — Technical colleges.

(a) Each technical college established or operated under this chapter shall be governed by a local board of trustees consisting of seven (7) members who shall be appointed by the Governor and subject to the confirmation of the Senate.

(b) The term of office of local board members shall be seven (7) years.

(c) Members of the local board shall be qualified electors of the service area of the technical college and knowledgeable in business, labor, industry, or economic development.

(d)(1) A person shall not serve as a member of the local board if the person is:

- (A) A candidate for public office;
- (B) A holder of public office in the state;
- (C) A licensed or nonlicensed employee of a public school district;
- (D) A classified or nonclassified employee of:
 - (i) A community college;
 - (ii) A vocational school;
 - (iii) A technical school; or
 - (iv) An institution of higher education; or
- (E) A member of a board of trustees of a:
 - (i) School district;
 - (ii) Community college; or
 - (iii) Institution of higher education.

(2) A person shall not serve as a member of the local board if the person's spouse is:

- (A) A candidate for public office;
- (B) A holder of public office in the state;
- (C) A classified or nonclassified employee of the technical college for which the person would serve as a member of the local board; or
- (D) A member of the board of trustees of the technical college for which the person would serve as a member of the local board.

(e) When a vacancy occurs in the membership of the local board, the president of the technical college shall notify the Governor, who shall appoint a successor to the person who vacated membership, who will serve the unexpired term of the person succeeded.

(f) The powers and duties of the local board shall be as follows:

(1) To acquire, hold, and transfer real and personal property, to enter into contracts, to institute and defend legal actions and suits, and to exercise such other rights and privileges as may be necessary for the management and administration of the technical college;

(2) To appoint the president of the technical college;

(3) To appoint, upon nomination of the president, members of the administrative and teaching staffs;

(4) To determine, with the approval of the Arkansas Higher Education Coordinating Board, the educational program of the technical college; and

(5) Other powers and duties as provided in this chapter and as delegated to it by the Arkansas Higher Education Coordinating Board.

(g) The local board shall select a chair and such other officers as are necessary for the performance of its duties.

(h) The local board may make rules not inconsistent with the provisions of this chapter or inconsistent with the rules of the Arkansas Higher Education Coordinating Board as are necessary for the proper administration and operation of the technical college.

(i) The local board may contract with the Division of Career and Technical Education, with a nonprofit organization, or with a local school board within its service area to offer secondary level general

academic and vocational and technical courses and programs or adult literacy courses, or both.

(j)(1) The local board of a technical college may contract with a municipality for:

(A) The transfer of real property, including any buildings or structures thereon from the college to the municipality;

(B) Any or all of the following:

(i) The construction, repair, and renovation of buildings or structures;

(ii) The construction of additions to buildings or structures; and

(iii) The provision of equipment, apparatuses, library materials, and fixtures for the buildings or structures by the municipality; and

(C)(i) The long-term lease of at least fifty (50) years of the buildings or structures by the municipality to the college for nominal monetary and other valuable consideration.

(ii) The leased building or structure shall be utilized by the college for educational and technical educational purposes.

(2) The college may expend funds under the Arkansas Existing Workforce Training Act of 1995, § 6-50-701 et seq., and the Arkansas College Savings Bond Act of 1989, § 6-62-701 et seq., and the college and the municipality may expend any other funds available pursuant to applicable law for the purposes set out in this subsection and for the operation of the facility or structure if the college receives a long-term lease of at least fifty (50) years.

(3) If pursuant to subdivision (j)(1) of this section the college receives a long-term lease of at least fifty (50) years, the college and the municipality are authorized jointly to do any or all of the following:

(A) Construct, repair, and renovate buildings or structures;

(B) Construct additions to buildings or structures; and

(C) Provide equipment, apparatus, library materials, and fixtures for the buildings or structures.

(k)(1)(A) After a merger between a technical college and a four-year institution of higher education or a university system, control of the technical college shall be vested in the board of trustees of the four-year institution of higher education or the board of trustees of the university system.

(B) The board of trustees of the four-year institution of higher education or the board of trustees of the university system shall perform the functions, duties, and responsibilities of the former governing board of the technical college.

(2) After a merger under subdivision (k)(1) of this section, the former governing board of the technical college shall become a board of visitors performing the functions as determined by the board of trustees of the four-year institution of higher education or the board of trustees of the university system.

(3) Members of the board of visitors shall:

(A) Be appointed by the Governor subject to the confirmation of the Senate;

- (B) Serve terms of seven (7) years;
- (C) Possess the qualifications under subsection (c) of this section; and
- (D) Be subject to the restrictions under subsection (d) of this section.

History. Acts 1991, No. 1244, § 17; 1995, No. 854, § 1; 1997, No. 481, § 1; 2009, No. 82, § 1; 2013, No. 1138, § 79; 2017, No. 71, § 2; 2019, No. 315, § 354; 2019, No. 910, § 1930.

Amendments. The 2017 amendment added (k).

The 2019 amendment by No. 315 deleted “and regulations” following “rules” twice in (h).

The 2019 amendment by No. 910 substituted “Division of Career and Technical Education” for “Department of Career Education” in (i).

6-53-303. Institution presidents.

(a) The president of the technical or community college shall serve at the pleasure of the local board.

(b) A person currently appointed and serving as a president of existing community colleges or a chancellor of a two-year branch of a four-year institution which might transfer to the Arkansas Technical and Community College System shall continue his or her terms of employment and shall have all rights and benefits of employment.

(c) When a vacancy occurs in the office of president of a technical or community college in the system, the local board shall select the new president.

History. Acts 1991, No. 1244, § 27; 1999, No. 478, § 4.

6-53-304. Student tuition — Fees.

(a) The intent of this chapter is to make technical and community college programs available to as many citizens of Arkansas as possible. To this end, tuition and fees should be maintained at a reasonable level so as not to exclude citizens because of cost.

(b) The local board shall determine the minimum student tuition and fees to be charged by institutions within the Arkansas Technical and Community College system.

(c) The local board shall set both in-district and out-of-district student tuition and fees for each institution within its service area. Students residing outside a community college district may be subject to extra tuition and fees.

History. Acts 1991, No. 1244, § 26; 1999, No. 1107, § 2.

6-53-305. Transportation.

A technical or community college may establish and operate a transportation system for students within the service area of the

institution assigned by the Arkansas Higher Education Coordinating Board.

History. Acts 1991, No. 1244, § 16.

6-53-306. Coordination with secondary vocational-technical education and literacy programs.

Upon the approval of the Arkansas Higher Education Coordinating Board, the local board may contract with the Division of Career and Technical Education, a nonprofit organization, or a local school district board of directors within its service area to offer secondary-level vocational and technical courses and programs, adult literacy courses, and industry training.

History. Acts 1991, No. 1244, § 14; substituted "Division of Career and Technical Education" for "Department of Career Education" for 2019, No. 910, § 1931.

Amendments. The 2019 amendment

6-53-307. County support of technical colleges.

(a)(1) Any county quorum court may designate all or any portion of any undedicated county sales or use tax to be used for capital improvements to or the maintenance and operation of any technical college, two-year college, community college, or satellite campus of a community college.

(2)(A) In the alternative, the quorum court may refer to a vote of the people at any general or special election the issue of dedicating all or a portion of any undedicated county sales or use tax to any technical college, community college, two-year college, or satellite campus of a community college to be used for capital improvements to or the maintenance and operation of the technical college, community college, two-year college, or satellite campus of a community college.

(B) If the voters dedicate all or a portion of the tax, it shall remain so dedicated until the voters decide otherwise.

(b) When the quorum court calls an election on the issue of the levy of any county sales or use tax, it may also cause to be placed on the ballot the issue of dedicating all or a portion of the tax for capital improvements to or the maintenance and operation of any technical college, community college, two-year college, or satellite campus of a community college.

(c) If a technical college, community college, two-year college, or satellite campus of a community college for which a tax is dedicated or levied under this section thereafter becomes a branch of an existing institution of higher education, the tax dedicated or levied under this section shall continue to be dedicated and levied for the use and benefit of the branch unless reduced or repealed as authorized under this section.

(d) A county sales or use tax dedicated or levied under this section may also be dedicated or levied in part for capital improvements to or

the maintenance and operation of any public institution of higher education located in the county.

(e) Any election called by the quorum court pursuant to this section shall be called pursuant to the proclamation issued by the quorum court and held in accordance with § 7-11-201 et seq.

History. Acts 1993, No. 867, §§ 1-4; 1999, No. 818, § 1; 2005, No. 2145, § 6; 1995, No. 576, § 2; 1997, No. 918, § 1; 2007, No. 1049, § 8; 2009, No. 1480, § 6.

6-53-308. Municipal contracts.

(a) The local board of a community college may contract with a municipality for:

(1) The transfer of real property, including any buildings or structures thereon from the college to the municipality;

(2) Any or all of the following:

(A) The construction, repair, and renovation of buildings or structures;

(B) The construction of additions to buildings or structures; and

(C) The provision of equipment, apparatus, library materials, and fixtures for the buildings or structures by the municipality; and

(3)(A) The long-term lease of at least fifty (50) years of the buildings or structures by the municipality to the college for nominal monetary and other valuable consideration.

(B) The leased building or structure shall be utilized by the college for educational purposes.

(b) The college may expend funds under the Arkansas College Savings Bond Act of 1989, § 6-62-701 et seq., and the college and the municipality may expend any other funds available pursuant to applicable law for the purposes set out in this section and for the operation of the facility or structure if the college receives a long-term lease of at least fifty (50) years.

(c) If, pursuant to subsection (a) of this section, the college receives a long-term lease of at least fifty (50) years, the college and the municipality are authorized jointly to do any or all of the following:

(1) Construct, repair, and renovate buildings or structures;

(2) Construct additions to buildings or structures; and

(3) Provide equipment, apparatus, library materials, and fixtures for the buildings or structures.

History. Acts 1997, No. 481, § 2.

SUBCHAPTER 4 — CONVERSIONS AND CONSOLIDATIONS

SECTION.

6-53-401. Coordination with institutional boards of trustees.

SECTION.

6-53-402. Two-year branches — Conversion to technical college.

SECTION.

6-53-403. Technical colleges and two-year branches — Conversion to community college.

6-53-404. Technical colleges — Acceptance as branch campus of community college.

SECTION.

6-53-405. Consolidations.

Effective Dates. Acts 1991, No. 1244, § 43: Apr. 17, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the restructuring of the delivery system of adult education and vocational education in this state is necessary to provide higher quality educational programs which are accessible by all segments of the population in this state; that recent studies have shown that in the year 2000, workers must have a minimum of fourteen (14) years education to function in the work force; that the state is in desperate need of training, retraining and upgrading the work force; that this act will provide a means to establish more institutions working closely with business and industry to provide every citizen with an opportunity to participate in vocational-technical training or college transfer programs within a reasonable driving distance of their homes; that it is necessary for this act to become effective immediately so needed changes can be made prior to the date the institutions contained herein are transferred to the new system. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 1114, § 18: May 1, 1997. Emergency clause provided: "It is found and determined by the General Assembly

of the State of Arkansas that this act abolishes the State Board of Higher Education and replaces the board with the Arkansas Higher Education Coordinating Board; and that to provide for an efficient transition and to allow the Governor a sufficient time to make appointments, this act shall become effective May 1, 1997. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on May 1, 1997."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-53-401. Coordination with institutional boards of trustees.

A merger or consolidation of a state-supported postsecondary vocational-technical institution with an existing community college, with a branch campus of a four-year institution, or with a four-year institution, is subject to the approval of the:

(1) Board of directors or board of trustees of the existing community college or four-year institution; and

(2) Arkansas Higher Education Coordinating Board.

History. Acts 1991, No. 1244, § 13; 2015, No. 865, § 5; 2017, No. 636, § 5.

Amendments. The 2017 amendment deleted “board of trustees of the institution, the Arkansas Higher Education Coordinating Board, and an accrediting

agency recognized by the federal Department of Education” following “approval of the” at the end of the introductory language; added (1) and (2); and made a stylistic change.

6-53-402. Two-year branches — Conversion to technical college.

(a) A board of trustees of a four-year institution may, by resolution or when requested, petition the Arkansas Higher Education Coordinating Board to accept a two-year branch campus to be a technical college under the Arkansas Higher Education Coordinating Board’s jurisdiction.

(b) Upon approval by the Arkansas Higher Education Coordinating Board and an accrediting agency recognized by the United States Department of Education and upon assignment of a service area for the institution, the two-year branch campus shall be known as a technical college.

(c) All records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the two-year branch campus shall be transferred to the Arkansas Higher Education Coordinating Board until a local board is appointed.

(d) Upon the appointment of a local board, all records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the technical college shall be transferred to the local board.

(e) The local board shall be responsible for the administration and operation of the technical college and such other state-supported institutions within the system located in the service area designated by the Arkansas Higher Education Coordinating Board as necessary to adequately meet the two-year postsecondary educational needs of those citizens located within the service area assigned to the technical college.

(f) Upon the establishment of the technical college, the two-year branch of the four-year institution shall be abolished.

(g)(1) A technical college established under this section that fails to achieve higher education institutional accreditation from an accrediting agency recognized by the United States Department of Education within eight (8) years following the date of conversion shall be abolished by the Arkansas Higher Education Coordinating Board.

(2) All records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the technical college shall be transferred to the Division of Higher Education.

(h)(1) No state-supported vocational and technical institution in this state other than those provided for by this chapter shall convert to become a technical college if there is an existing community college located within the same county as the vocational and technical institution.

(2) The local board of any state-supported postsecondary institution and the board of a community college located within the same county, upon passage of a resolution by each board and with the approval by the Arkansas Higher Education Coordinating Board and an accrediting agency recognized by the United States Department of Education, may merge the state-supported postsecondary institution with the community college.

History. Acts 1991, No. 1244, §§ 15, 21; 1991, No. 1246, § 11; 1995, No. 603, § 1; 2015, No. 865, §§ 6-8; 2019, No. 910, § 1932.

Amendments. The 2019 amendment substituted "Division of Higher Education" for "Department of Higher Education" in (g)(2).

6-53-403. Technical colleges and two-year branches — Conversion to community college.

(a)(1) The procedures for the conversion of a technical college or a two-year branch campus of a four-year institution to a community college shall, except as set forth herein, be the same as those in § 6-61-101 et seq. concerning formation of a community college district, and the provisions of this section shall be cumulative to the laws of this state governing the creation and operation of community colleges.

(2) Any postsecondary vocational-technical school which converts to a technical college under the provisions of this chapter or any two-year branch campus whose board of trustees petitions the Arkansas Higher Education Coordinating Board under this chapter shall be exempt from § 6-61-509(c), limiting the maximum number of community college districts in this state to eight (8), and may hereafter convert to become a community college with the approval of the Arkansas Higher Education Coordinating Board.

(b) Prior to the election, the Arkansas Higher Education Coordinating Board shall assist any group of citizens representing a proposed community college district within the service area containing the technical college in determining the feasibility of the proposed district and the adequacy of the proposed millage levy, if any.

(c) A board of trustees of a four-year institution shall when requested petition the Arkansas Higher Education Coordinating Board to authorize an election for a two-year branch campus of the four-year institution to become a community college.

(d)(1) If a two-year branch campus of a four-year institution exists in the same county as either a postsecondary vocational-technical institution or a technical college, the question on the ballot for formation of a community college district shall include the establishment of a community college composed of the two-year branch campus of the four-year institution and the postsecondary vocational-technical institution or technical college.

(2) In the event that an election is called for the formation of a community college district which includes the formation of a community college composed of a two-year branch campus of a four-year

institution and a technical college or a postsecondary vocational-technical institution, the costs of the election shall be paid for by the institutions which will comprise the community college.

(e)(1)(A)(i) Following the conversion of a technical college to a community college, the members of the local board of the technical college shall become members of the community college board, with two (2) additional board members to be appointed by the Governor.

(ii) The Arkansas Higher Education Coordinating Board shall then draw lots, with three (3) lots for two-year terms, three (3) lots for four-year terms, and three (3) lots for six-year terms.

(B) All records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the technical college shall be transferred to the local board of the community college.

(2) Upon the selection of the local board of the community college following the conversion of a two-year branch campus to a community college, the board of trustees of the four-year institution shall transfer all records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the two-year branch to the local board of the community college.

(f) Except as set forth otherwise in this chapter, the local board shall have the same powers and duties as those enumerated in § 6-61-101 et seq.

(g) The local board of the community college shall be responsible for the administration and operation of all satellite campuses.

(h) No millage tax of the community college district shall be used for capital outlay expense or operating expense of a satellite campus.

(i) Upon the establishment of the community college, the postsecondary vocational-technical institution, the technical college, and the two-year branch of the four-year institution shall be abolished.

(j)(1) Any community college established under this section which fails to achieve higher education institutional accreditation from the Higher Learning Commission within eight (8) years following the date of conversion shall be abolished by the Arkansas Higher Education Coordinating Board.

(2) All records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the community college shall be transferred to the Division of Higher Education.

History. Acts 1991, No. 1244, § 22; 1991, No. 1246, § 11; 1993, No. 423, §§ 5, 6; 1995, No. 603, § 3; 1997, No. 1114, § 11; 2019, No. 910, § 1933.

A.C.R.C. Notes. Acts 1999, No. 1400, § 30, provided that: "SALARY ADJUSTMENT. In the event that any postsecondary vocational institution merges with a contiguous community college, the direc-

tor of the vocational institute shall become eligible for a \$10,000 increase in annual salary and the assistant director shall become eligible for a \$5,000 increase in annual salary following such a merger."

Amendments. The 2019 amendment substituted "Division of Higher Education" for "Department of Higher Education" in (j)(2).

6-53-404. Technical colleges — Acceptance as branch campus of community college.

(a) A board of trustees of a community college may, by resolution or when requested, petition the Arkansas Higher Education Coordinating Board to accept a technical college located in the same service area to be a branch campus of the community college.

(b) All records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the above-listed state-supported institutions within the service area of the community college shall be transferred to the local board.

(c) The local board of the community college shall be responsible for the administration and operation of all state-supported postsecondary vocational-technical institutions located within its service area and consolidated by this chapter.

(d)(1) Until such time as territory containing the vocational-technical institution is joined to the community college district, the institution shall be operated as and known as a satellite campus of the community college.

(2) In cases where the vocational-technical institution is located within the community college district, upon consolidation, such institution shall be known as a branch campus of the community college, or if situated in close proximity to an existing community college campus no name distinction need be made for such institution.

(e) No millage tax of the community college district shall be used for capital outlay expense or operating expense of a satellite campus.

(f) The procedures for reconstituting districts under § 6-61-518 shall be followed to join additional territory containing the satellite campus to the existing community college district.

(g) Following the passage of the question to join territory containing the satellite campus to the existing community college district or to impose an additional millage for the community college district, the institution shall be known as a branch campus of the community college.

(h)(1) Any satellite campus of a community college which fails to become a branch campus of the community college or which fails to achieve higher education institutional accreditation from the Higher Learning Commission within eight (8) years following the date of transfer under subsection (b) of this section shall be abolished by the Arkansas Higher Education Coordinating Board.

(2) All records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the satellite campus shall be transferred to the Division of Higher Education.

History. Acts 1991, No. 1244, § 20; 1995, No. 603, § 4; 2019, No. 910, § 1934.

Amendments. The 2019 amendment substituted "Division of Higher Education" for "Department of Higher Education" in (h)(2).

6-53-405. Consolidations.

(a)(1) As provided in this chapter or upon approval of the Career Education and Workforce Development Board, the board of trustees of the receiving institution, the Arkansas Higher Education Coordinating Board, and an accrediting agency recognized by the United States Department of Education, the Arkansas Higher Education Coordinating Board may consolidate a state-supported vocational-technical institution with a four-year institution or a two-year branch campus of a four-year institution.

(2) Following approval by an accrediting agency recognized by the United States Department of Education, the Arkansas Higher Education Coordinating Board, upon approval of the board of trustees of the receiving institution, shall consolidate the following state-supported vocational-technical institutions and four-year institutions or two-year branch campuses of a four-year institution: White River Vocational-Technical School with Arkansas State University-Beebe.

(b) The board of trustees of the four-year institution which receives a state-supported institution shall be responsible for the administration and operation of the state-supported institution.

(c) All records, personnel, property, unexpended balances of appropriations, allocations, or other funds of the state-supported institution shall be transferred to the board of trustees.

History. Acts 1991, No. 1244, § 23; 2015, No. 865, § 9; 2017, No. 275, § 6.

Amendments. The 2017 amendment substituted "Arkansas Higher Education

Coordinating Board" for "board" preceding "may consolidate" in (a)(1); and substituted "Arkansas Higher Education Coordinating Board" for "board" in (a)(2).

SUBCHAPTER 5 — GRANTS FOR TECH-PREP EDUCATION**SECTION.**

6-53-501. Definitions.

6-53-502. [Repealed.]

6-53-503. Applications for grants.

6-53-504. Approval of applications —
Factors considered.

SECTION.

6-53-505. Designation of agency to receive federal funds.

Effective Dates. Acts 1991, No. 1244, § 43; Apr. 17, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the restructuring of the delivery system of adult education and vocational education in this state is necessary to provide higher quality educational programs which are accessible by all segments of the population in this state; that recent studies have shown that in the year 2000, workers must have a minimum of fourteen (14) years education to function in the work force; that the

state is in desperate need of training, retraining and upgrading the work force; that this act will provide a means to establish more institutions working closely with business and industry to provide every citizen with an opportunity to participate in vocational-technical training or college transfer programs within a reasonable driving distance of their homes; that it is necessary for this act to become effective immediately so needed changes can be made prior to the date the institutions contained herein are transferred to the new system. Therefore, an

emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.”

6-53-501. Definitions.

As used in this subchapter, unless the context otherwise requires:

- (1) “Articulation agreement” means a commitment to a program designed to provide students with a nonduplicative sequence of progressive achievement leading to competencies in a tech-prep education program or in college transfer programs; and
- (2) “Tech-prep education program” means a combined secondary and postsecondary program which:
 - (A) Leads to an associate of applied science or other occupational degree or two-year certificate;
 - (B) Provides technical preparation in at least one (1) field of engineering technology, applied science, mechanical, industrial, or practical art or trade, or agriculture, health, or business;
 - (C) Builds student competence in mathematics, science, and communications, including through applied academics, through a sequential course of study; and
 - (D) Leads to placement in employment.

History. Acts 1991, No. 1244, § 29.

6-53-502. [Repealed.]

Publisher’s Notes. This section, concerning grants for tech-prep education, was repealed by Acts 2021, No. 545, § 23, effective July 28, 2021. The section was derived from Acts 1991, No. 1244, § 29.

6-53-503. Applications for grants.

- (a) Each consortium that desires to receive a grant under this subchapter shall submit an application to the director or the Arkansas Higher Education Coordinating Board, as appropriate, at such time and in such manner as the board shall prescribe through rule.
- (b) Each application submitted under this subchapter shall contain a three-year plan for the development and implementation of activities under this subchapter.

History. Acts 1991, No. 1244, § 29; 2019, No. 315, § 355. deleted “or regulation” following “rule” in (a).

Amendments. The 2019 amendment

6-53-504. Approval of applications — Factors considered.

- (a) The Arkansas Higher Education Coordinating Board and the Career Education and Workforce Development Board shall approve

applications based on their potential to create an effective tech-prep education program as provided in this subchapter.

(b) The two (2) boards shall give special consideration to applications which:

(1) Provide for effective employment placement activities or transfer of students to four-year baccalaureate degree programs;

(2) Are developed in consultation with business, industry, and labor unions; and

(3) Address effectively the issues of dropout prevention and reentry and the needs of minority youths, youths of limited English proficiency, youths with disabilities, and disadvantaged youths.

(c) In making grants under this subchapter, the two (2) boards shall ensure an equitable distribution of assistance throughout the state, and shall ensure an equitable distribution of assistance between urban and rural consortium participants.

(d) In the case of grants made by the two (2) boards, each grant recipient shall, with respect to assistance received under this subchapter, submit to the secretary such reports as may be required by the secretary to ensure that such grant recipient is complying with the requirements of this subchapter.

(e) After grant recipients who receive grants in the first year in which grants are made under this subchapter complete their eligibility under the program, the directors shall submit to the General Assembly a report evaluating the effectiveness of the program under this subchapter.

History. Acts 1991, No. 1244, § 29.

6-53-505. Designation of agency to receive federal funds.

The Career Education and Workforce Development Board is hereby designated as the agency to receive the funds allocated to the state pursuant to the provisions of 20 U.S.C. § 2351 et seq.

History. Acts 1991, No. 1244, § 29.

SUBCHAPTER 6 — TECHNICAL COLLEGE DISTRICTS

SECTION.

6-53-601. Legislative findings and intent.

6-53-602. Formation of proposed district.
[Effective until January 1, 2022.]

6-53-602. Formation of proposed district.
[Effective January 1, 2022.]

6-53-603. Tax levy. [Effective until January 1, 2022.]

6-53-603. Tax levy. [Effective January 1, 2022.]

SECTION.

6-53-604. Dissolution of district — Reduction of millage tax. [Effective until January 1, 2022.]

6-53-604. Dissolution of district — Reduction of millage tax. [Effective January 1, 2022.]

6-53-605. Continuation of tax.

A.C.R.C. Notes. Pursuant to § 1-2-207, this subchapter is set out below as enacted by Acts 1993, No. 945. Acts 1993, No. 423, § 1 also enacted a new subchapter 6 of this chapter concerning the establishment of technical college districts, which read as follows:

"6-53-601. Pursuant to the authority granted by Amendment No. 52 to the Constitution of the State of Arkansas, it is the intent of the General Assembly by this act to authorize the establishment of technical college districts and the levy of a property tax in such districts not to exceed ten (10) mills on each dollar of assessed value of the taxable real and personal property of a district, with the revenues therefrom to be used for site acquisition, construction, equipping, operation, and maintenance of technical colleges.

"6-53-602.(a) Upon request of the local board of a technical college, or the State Board of Higher Education acting as the local board of a technical college, the College Panel shall determine whether formation of a proposed technical college district, the boundaries of which shall be determined by the local board, or the State Board of Higher Education acting as the local board, is feasible according to criteria established by the State Board for the formation of a technical college district.

"(b) Within ten (10) calendar days after the College Panel determines that the formation of a proposed district is feasible, the local board or the State Board of Higher Education acting as the local board shall notify the county board of election commissioners in each county of which any portion is in the proposed technical college district that an election shall be held to determine whether the district shall be formed and whether a property tax, if any, shall be levied to fund site acquisition, construction, equipping, operation, and maintenance of the college. The local board or acting local board shall set a date for the election to be held at a time not less than thirty (30) calendar days after the local board notifies the county board(s). The local board or acting local board shall specify the wording of the ballot to be used for such elections, utilizing appropriate language similar to that found in § 6-61-513(b), and the county board(s) of election commissioners shall

conduct the election in the manner provided by law for special elections.

"(c) Except as provided in subsection (d) of this section, if the establishment of a proposed technical college district fails because of an adverse vote by a majority of the qualified electors of the proposed district voting thereon at the election, no new election for the establishment thereof shall be held within a period of one (1) year after the date of the election.

"(d) If the establishment of a proposed technical college district fails and the majority of votes cast in one (1) or more counties or cities in a proposed district were against the establishment of the district, the local board or acting local board may notify the county board(s) of election commissioners that an election will be held on the issue of forming a proposed district that does not include the county, city, counties, or cities in which the issue failed. The local board or acting local board shall set a date for the election to be held no less than thirty (30) calendar days after the local board notifies the county board(s). The procedures for an election to form a proposed reconstituted district shall be identical to the procedures for an election to establish a technical college district.

"(e) If the local board or acting local board of a technical college determines that the question of a tax levy in the technical college district should be submitted to the electors after the district is formed, it shall certify the millage requested to the county board of election commissioners of each county of which any portion is in the technical college district. The county board(s) shall place the question of the levy on the ballot at the next general election if the date of the general election is not less than thirty (30) calendar days after the county board(s) receive certification from the local board. In the alternative, the local board or acting local board may set a date for a special election at a time not less than thirty (30) calendar days after the local board or acting local board notifies the county board(s). A special election shall be conducted in the manner provided by law for special elections.

"(f) The tax levied under this subchapter shall be a continuing levy unless otherwise provided by law. It may be reduced or repealed, with the exception of the

amount of tax required to service any outstanding bonds, or increased, upon approval thereof by a majority of the qualified electors of the district voting on the issue at an election called by the local board or acting local board for such purpose at least thirty (30) calendar days after the local board notifies the county board(s) of election commissioners. The tax shall be collected in the manner now provided by law for the collection of county general taxes and promptly remitted by the county treasurer to the district. Revenues derived from any tax levied pursuant to this subchapter may be used for site acquisition, construction, equipping, maintenance, or operations of a technical college. If a technical college for which a tax is levied thereafter becomes a branch of an existing institution of higher education, the tax levied hereunder shall continue to be levied and collected for the use and benefit of the branch unless reduced or repealed as authorized in this section.

"6-53-603.(a) A technical college district may be dissolved or the millage tax voted reduced or repealed, with the exception of the amount of tax required to service any outstanding bonds, upon approval by a majority of the qualified electors of the district voting on the issue at an election called for such purpose by the county board(s) of election commissioners upon submission of petitions signed by not less than ten percent (10%) of the qualified electors of the district based upon the total number of votes as cast therein for all candidates for the office of the Governor in the last general election.

"(b) The petition shall be filed with the Secretary of State of Arkansas, who within ten (10) days of the receipt and verification by the Secretary of State of the sufficiency of the petitions shall notify

the county board(s) of election commissioners that an election shall be held at a time not less than thirty (30) nor more than one hundred and eighty (180) days from the date of notification."

Effective Dates. Acts 1997, No. 1114, § 18: May 1, 1997. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act abolishes the State Board of Higher Education and replaces the board with the Arkansas Higher Education Coordinating Board; and that to provide for an efficient transition and to allow the Governor a sufficient time to make appointments, this act shall become effective May 1, 1997. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on May 1, 1997."

Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2021, No. 610, § 41: Jan 1, 2022.

6-53-601. Legislative findings and intent.

It is the intent and purpose of this subchapter to authorize the formation of technical college districts and the levy of ad valorem taxes in such districts not to exceed ten (10) mills on each dollar of assessed value of the taxable real and personal property of a district, with the revenues therefrom to be used for site acquisition, construction, equipping, and operation of technical colleges, as authorized in Arkansas Constitution, Amendment 52.

History. Acts 1993, No. 945, § 1.

6-53-602. Formation of proposed district. [Effective until January 1, 2022.]

(a)(1) Upon request of the local board of a technical college or the Arkansas Higher Education Coordinating Board acting as a local board of a technical college, the Arkansas Higher Education Coordinating Board shall determine whether formation of a proposed technical college district is feasible according to criteria established by the Arkansas Higher Education Coordinating Board for the formation of a technical college district.

(2) The boundaries of the technical college district are to be determined by the local board or the Arkansas Higher Education Coordinating Board acting as the local board.

(b)(1) Within ten (10) calendar days after the Arkansas Higher Education Coordinating Board determines that the formation of a proposed district is feasible, the local board or the Arkansas Higher Education Coordinating Board acting as the local board shall notify the county board of election commissioners in each county of which any portion is in the proposed technical college district that an election will be held to determine whether the district shall be formed and whether an ad valorem tax shall be levied on property in the district to fund site acquisition, construction, equipping, and operation of the college.

(2) The local board or acting local board shall issue a proclamation and set a date for the election under § 7-11-201 et seq., but the date set for the election shall not be later than ninety (90) days after the publication of the proclamation.

(3) The local board or acting local board shall specify the wording of the ballot to be used for the election utilizing appropriate language similar to that found in § 6-61-513(c), and the county boards of election commissioners shall conduct the election in the manner provided by law for special elections.

(c)(1) Except as provided in subdivision (c)(2) of this section, if the establishment of a proposed technical college district fails because of an adverse vote by a majority of the qualified electors of the proposed district voting thereon at the election, no new election for the establishment thereof shall be held within a period of one (1) year after the date of the election.

(2)(A) If the formation of a proposed technical college district fails and the majority of votes cast in one (1) or more counties or cities in a proposed district were against the formation of the district, the local board or acting local board may notify the county boards of election commissioners that an election will be held on the issue of forming a proposed district that does not include the county, city, counties, or cities in which the issue failed.

(B) The local board or acting local board shall issue a proclamation and set a date for the election in accordance with § 7-11-201 et seq.

(C) The procedures for an election to form a proposed reconstituted district shall be identical to the procedures for an election to establish a technical college district.

(d)(1) If the local board or acting local board of a technical college determines that the question of a tax levy in the technical college district should be submitted to the electors after the district is formed, it shall certify the millage requested to the county board of election commissioners of each county of which any portion is in the technical college district.

(2) The county boards shall place the question of the levy on the ballot at the next general election if the date of the general election is not less than sixty (60) calendar days after the county boards receive certification from the local board or acting local board.

(3) In the alternative, the local board or acting local board may set a date for a special election in accordance with § 7-11-201 et seq.

(4) The special election shall be conducted in the manner provided by law for other special elections.

History. Acts 1993, No. 945, § 1; 1997, No. 1114, § 12; 2005, No. 2145, § 7; 2007, No. 1049, § 9; 2009, No. 376, § 54; 2009, No. 1480, §§ 7-9.

Publisher's Notes. For text of section effective January 1, 2022, see the following version.

6-53-602. Formation of proposed district. [Effective January 1, 2022.]

(a)(1) Upon request of the local board of a technical college or the Arkansas Higher Education Coordinating Board acting as a local board of a technical college, the Arkansas Higher Education Coordinating Board shall determine whether formation of a proposed technical college district is feasible according to criteria established by the Arkansas Higher Education Coordinating Board for the formation of a technical college district.

(2) The boundaries of the technical college district are to be determined by the local board or the Arkansas Higher Education Coordinating Board acting as the local board.

(b)(1) Within ten (10) calendar days after the Arkansas Higher Education Coordinating Board determines that the formation of a proposed district is feasible, the local board or the Arkansas Higher Education Coordinating Board acting as the local board shall notify the county board of election commissioners in each county of which any portion is in the proposed technical college district that an election will be held to determine whether the district shall be formed and whether an ad valorem tax shall be levied on property in the district to fund site acquisition, construction, equipping, and operation of the college.

(2)(A) The local board or acting local board shall issue a proclamation and set a date for the election under § 7-11-201 et seq.

(B) The local board or acting local board shall publish the proclamation at least ninety (90) days before the election date.

(3) The local board or acting local board shall specify the wording of the ballot to be used for the election utilizing appropriate language similar to that found in § 6-61-513(c), and the county boards of election commissioners shall conduct the election in the manner provided by law for special elections.

(c)(1) Except as provided in subdivision (c)(2) of this section, if the establishment of a proposed technical college district fails because of an adverse vote by a majority of the qualified electors of the proposed district voting thereon at the election, no new election for the establishment thereof shall be held within a period of one (1) year after the date of the election.

(2)(A) If the formation of a proposed technical college district fails and the majority of votes cast in one (1) or more counties or cities in a proposed district were against the formation of the district, the local board or acting local board may notify the county boards of election commissioners that an election will be held on the issue of forming a proposed district that does not include the county, city, counties, or cities in which the issue failed.

(B) The local board or acting local board shall issue a proclamation and set a date for the election in accordance with § 7-11-201 et seq.

(C) The procedures for an election to form a proposed reconstituted district shall be identical to the procedures for an election to establish a technical college district.

(d)(1) If the local board or acting local board of a technical college determines that the question of a tax levy in the technical college district should be submitted to the electors after the district is formed, it shall certify the millage requested to the county board of election commissioners of each county of which any portion is in the technical college district.

(2) The county boards shall place the question of the levy on the ballot at the next general election if the date of the general election is not less than sixty (60) calendar days after the county boards receive certification from the local board or acting local board.

(3) In the alternative, the local board or acting local board may set a date for a special election in accordance with § 7-11-201 et seq.

(4) The special election shall be conducted in the manner provided by law for other special elections.

History. Acts 1993, No. 945, § 1; 1997, No. 1114, § 12; 2005, No. 2145, § 7; 2007, No. 1049, § 9; 2009, No. 376, § 54; 2009, No. 1480, §§ 7-9; 2021, No. 610, § 5.

Publisher's Notes. For text of section effective until January 1, 2022, see the preceding version.

Amendments. The 2021 amendment

added the (b)(2)(A) designation; deleted "but the date set for the election shall not be later than ninety (90) days after the publication of the proclamation" from the end of (b)(2)(A); and added (b)(2)(B).

Effective Dates. Acts 2021, No. 610, § 41: Jan. 1, 2022.

6-53-603. Tax levy. [Effective until January 1, 2022.]

(a)(1) A tax levied under this subchapter shall be a continuing levy unless otherwise provided by law.

(2) It may be reduced or repealed, with the exception of the amount of tax required to service any outstanding bonds, or the tax may be increased upon approval thereof by a majority of the qualified electors of the district voting on the issue at an election called by the local board or acting local board to be held at least thirty (30) calendar days after the local board or acting local board notifies the county boards of election commissioners.

(b) The tax shall be collected in the manner now provided by law for the collection of county general taxes and promptly remitted by the county treasurer to the district.

(c) Revenues derived from a tax levied pursuant to this subchapter may be used for site acquisition, construction, equipping, or operation of a technical college or for any of such purposes.

History. Acts 1993, No. 945, § 1.

effective January 1, 2022, see the following version.

Publisher's Notes. For text of section

6-53-603. Tax levy. [Effective January 1, 2022.]

(a)(1) A tax levied under this subchapter shall be a continuing levy unless otherwise provided by law.

(2) A tax levy may be reduced or repealed, with the exception of the amount of tax required to service an outstanding bond, or the tax may be increased upon approval thereof by a majority of the qualified electors of the district voting on the issue at the next election called by the local board or acting local board under § 7-11-205.

(b) The tax shall be collected in the manner now provided by law for the collection of county general taxes and promptly remitted by the county treasurer to the district.

(c) Revenues derived from a tax levied pursuant to this subchapter may be used for site acquisition, construction, equipping, or operation of a technical college or for any of such purposes.

History. Acts 1993, No. 945, § 1; 2021, No. 610, § 6.

Publisher's Notes. For text of section effective until January 1, 2022, see the preceding version.

Amendments. The 2021 amendment, in (a)(2), substituted "A tax levy" for "It", "the next election" for "an election", and

"under § 7-11-205" for "to be held at least thirty (30) calendar days after the local board or acting local board notifies the county boards of election commissioners"; and made stylistic changes.

Effective Dates. Acts 2021, No. 610, § 41: Jan. 1, 2022.

6-53-604. Dissolution of district — Reduction of millage tax. [Effective until January 1, 2022.]

(a) A technical college district may be dissolved or the millage tax voted reduced or repealed, with the exception of the amount of tax

required to service any outstanding bonds, upon approval by a majority of the qualified electors of the district voting on the issue at an election called for such purpose by the county boards of election commissioners upon submission of petitions signed by not less than ten percent (10%) of the qualified electors of the district based upon the total number of votes as cast therein for all candidates for the Office of Governor in the last general election.

(b) The petitions shall be filed with the Secretary of State, who, within ten (10) days of the receipt and verification by the Secretary of State of the sufficiency of the petitions, shall notify the county boards of election commissioners that an election shall be held at a time not less than thirty (30) days nor more than one hundred eighty (180) days from the date of notification.

History. Acts 1993, No. 945, § 1.

Publisher's Notes. For text of section

effective January 1, 2022, see the following version.

6-53-604. Dissolution of district — Reduction of millage tax.
[Effective January 1, 2022.]

(a) A technical college district may be dissolved or the millage tax voted reduced or repealed, with the exception of the amount of tax required to service any outstanding bonds, upon approval by a majority of the qualified electors of the district voting on the issue at an election called for such purpose by the county boards of election commissioners upon submission of petitions signed by not less than ten percent (10%) of the qualified electors of the district based upon the total number of votes as cast therein for all candidates for the Office of Governor in the last general election.

(b) The Secretary of State, within ten (10) days of the receipt and verification of the sufficiency of the petition, shall notify the county board of election commissioners in each county in the district that an election is to be held on the next special election date under § 7-11-205.

History. Acts 1993, No. 945, § 1; 2021, No. 610, § 7.

Publisher's Notes. For text of section effective until January 1, 2022, see the preceding version.

Amendments. The 2021 amendment rewrote (b).

Effective Dates. Acts 2021, No. 610, § 41: Jan. 1, 2022.

6-53-605. Continuation of tax.

If a technical college for which a tax is levied thereafter becomes a branch of an existing institution of higher education, the tax levied under this subchapter shall continue to be levied and collected for the use and benefit of the branch unless reduced or repealed as authorized in § 6-53-603.

History. Acts 1993, No. 945, § 1.

CHAPTER 54

ARKANSAS STATE UNIVERSITY THREE RIVERS

SECTION.

- 6-54-101. Arkansas State University
Three Rivers established.
6-54-102. Effect on other laws.

SECTION.

- 6-54-103. Rights and privileges.
6-54-104. Administration.
6-54-105. [Repealed.]

Effective Dates. Acts 1991, No. 617, § 8: Mar. 19, 1991. Emergency clause provided: "It is hereby found and determined by the Seventy-Eighth General Assembly that the restructuring of the delivery system of adult education and vocational education in this state is necessary to provide higher quality educational programs which are accessible by all segments of the population in this state; that recent studies have shown that in the year 2000, workers must have a minimum of fourteen (14) years education to function in the work force; that the state is in desperate need of training, retraining and upgrading the work force; that this Act will provide a means to establish more institutions working closely with business and industry to provide every citizen with an opportunity to participate in vocational-technical training or college transfer programs within a reasonable driving distance of their homes; that it is necessary for this Act to become effective immediately so needed changes can be made prior to the date the institutions contained herein are transferred to the new system. Therefore, an emergency is

hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-54-101. Arkansas State University Three Rivers established.

(a) The Arkansas Higher Education Coordinating Board shall designate Arkansas State University Three Rivers as a technical college, which shall become part of the Arkansas Technical and Community College System under the coordination of the board.

(b) Arkansas State University Three Rivers may expand to offer courses of instruction in technical, vocational, and adult education programs and college transfer programs and may, upon a vote of the electorate, create a community college district and, if necessary, impose a millage to convert Arkansas State University Three Rivers into a community college.

History. Acts 1991, No. 617, § 1; 2011, No. 208, § 1; 2021, No. 19, § 1.

A.C.R.C. Notes. As enacted, subsection (a) began “Effective July 1, 1991.”

Amendments. The 2021 amendment substituted “Arkansas State University Three Rivers” for “College of The Ouachitas” in the section heading; made a similar

change in (a); deleted former (b) and redesignated (c) as (b); in (b), substituted “Arkansas State University Three Rivers” for “This institution” and “to convert Arkansas State University Three Rivers into a community college” for “to convert to a community college”; and made a stylistic change.

RESEARCH REFERENCES

U. Ark. Little Rock. L. Rev. Survey of Legislation, 2001 Arkansas General As-

sembly, Education Law, 24 U. Ark. Little Rock. L. Rev. 453.

6-54-102. Effect on other laws.

The procedures and deadlines established in this chapter shall, for the purpose of this chapter, be in lieu of and supersede the procedures and deadlines under the existing laws of this state with respect to the establishment, organization, and administration of Arkansas State University Three Rivers. Existing laws of this state, for the purposes of this chapter, shall apply only in those situations that are not specifically provided for in this chapter and when applied shall be consistent, insofar as possible, with the purpose, procedures, and deadlines contained in this chapter.

History. Acts 1991, No. 617, § 4; 2021, No. 19, § 1.

Amendments. The 2021 amendment substituted “the procedures and deadlines under the existing laws of this state” for

“those set forth in existing laws of this state” and “Arkansas State University Three Rivers” for “this vocational-technical postsecondary institution”; and made stylistic changes.

6-54-103. Rights and privileges.

(a) Arkansas State University Three Rivers established under this chapter shall be subject to the same restrictions and enjoy the same privileges as any other technical college created under the chapter establishing the Arkansas Technical and Community College System.

(b) The Chancellor of Arkansas State University Three Rivers and all other personnel employed by the school shall enjoy the same rights and privileges as personnel employed by state-supported postsecondary vocational-technical schools transferred to the system under the subchapter establishing the system, § 6-53-201 et seq.

History. Acts 1991, No. 617, § 2; 2011, No. 208, § 2; 2021, No. 19, § 1.

Amendments. The 2021 amendment, in (a), substituted “Arkansas State University Three Rivers” for “The technical college” and “under this chapter” for “herein”; and, in (b), substituted “The

Chancellor of Arkansas State University Three Rivers” for “The President of the College of The Ouachitas”, “to the system” for “to the Arkansas Technical and Community College System”, and “the system” for “such system” and added “§ 6-53-201 et seq.”.

6-54-104. Administration.

(a) Unless Arkansas State University Three Rivers elects to become a community college, Arkansas State University Three Rivers shall be known as a technical college.

(b) Arkansas State University Three Rivers shall maintain higher education institutional accreditation from an accrediting agency recognized by the United States Department of Education.

(c) The Board of Trustees of the Arkansas State University system shall be responsible for the administration and operation of Arkansas State University Three Rivers and shall be further responsible for the provision of services to meet the two-year postsecondary educational needs of the citizens located within the service area assigned to Arkansas State University Three Rivers by the Arkansas Higher Education Coordinating Board.

History. Acts 1991, No. 617, § 1; 1997, No. 1114, § 13; 2015, No. 865, § 10; 2021, No. 19, § 1.

Amendments. The 2021 amendment, in (a), substituted “Unless Arkansas State University Three Rivers” for “Until the institution” and “Arkansas State University Three Rivers” for “the institution”; substituted “Arkansas State University

Three Rivers shall maintain” for “The technical college shall work to achieve” in (b); deleted former (c); redesignated former (d) as (c); in (c), substituted “Board of Trustees of the Arkansas State University System” for “local board” and “Arkansas State University Three Rivers” for “the institution” twice; and made stylistic changes.

6-54-105. [Repealed.]

Publisher’s Notes. This section, concerning abolishment if the technical college fails to achieve accreditation, was repealed by Acts 2021, No. 19, § 1, effective

July 28, 2021. The section was derived from Acts 1991, No. 617, § 1; 1995, No. 603, § 5; 2019, No. 910, § 1935.

CHAPTER 55**THE ARKANSAS CONSTRUCTION INDUSTRY CRAFT TRAINING ACT****SECTION.**

6-55-101. Title.

6-55-102. Purpose.

6-55-103. Arkansas Construction Industry Craft Training Program — Created.

6-55-104. Arkansas Construction Industry Craft Training Program — Purpose — Administration.

SECTION.

6-55-105. Program plan.

6-55-106. Permit surcharge to fund programs.

6-55-107. Arkansas Construction Industry Craft Training Trust Fund — Apprenticeship program requirements.

6-55-108. Rules.

Effective Dates. Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: “It is found and determined by

the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act estab-

lishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should be-

come effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

6-55-101. Title.

This chapter shall be known and may be cited as "The Arkansas Construction Industry Craft Training Act".

History. Acts 1999, No. 474, § 1.

6-55-102. Purpose.

(a) The General Assembly recognizes that at any given time the level of activity in our national construction industry is the primary yardstick for measuring the overall economic health of this country and that the success and stability of the building business of this state are dependent upon a sufficient supply of skilled artisans and craftspeople who can produce quality projects that inspire public confidence.

(b) It is the intent of this chapter to promote a coordinated effort between the construction industry and the vocational and technical schools and colleges to enhance the availability and the competence of the work force supporting the industry by instituting a craft training program.

History. Acts 1999, No. 474, § 2.

6-55-103. Arkansas Construction Industry Craft Training Program — Created.

There is created the Arkansas Construction Industry Craft Training Program, which shall be incorporated into the curricula of existing state vocational schools, technical institutions, and two-year colleges. The program shall not cause the creation of any new schools or facilities solely to accommodate or fulfill the requirements of this chapter.

History. Acts 1999, No. 474, § 3.

6-55-104. Arkansas Construction Industry Craft Training Program — Purpose — Administration.

(a) In order to provide for an efficient, competent, and resourceful construction industry training program that will enhance the development of a quality labor pool to support the building industry of this

state, there is established the Arkansas Construction Industry Craft Training Program.

(b) The program will be administered by the Office of Skills Development in collaboration with the Arkansas Apprenticeship Coordination Steering Committee created by § 6-52-204.

History. Acts 1999, No. 474, § 4; 2019, No. 910, § 155; 2021, No. 647, § 10.

Amendments. The 2019 amendment substituted "Office of Skills Development" for "Department of Career Education" in (b).

The 2021 amendment substituted "Arkansas Apprenticeship Coordination Steering Committee" for "State Apprenticeship Coordination Steering Committee" in (b).

6-55-105. Program plan.

In addition to the duties of the Arkansas Apprenticeship Coordination Steering Committee contained in § 6-52-205, the committee is authorized to develop a plan for the Arkansas Construction Industry Craft Training Program which shall include, but not be limited to, the following:

- (1) Formulas and administrative procedures to be used in requesting appropriations of state funds for the program;
- (2) Forms, formulas, and administrative procedures to be used in distributing funds to construction craft training programs; and
- (3) Other administrative procedures or rules as may be necessary for the equitable and efficient operation of the program.

History. Acts 1999, No. 474, § 6; 2021, No. 647, § 11.

Amendments. The 2021 amendment substituted "Arkansas Apprenticeship Co-

ordination Steering Committee" for "State Apprenticeship Coordination Steering Committee" in the introductory language.

6-55-106. Permit surcharge to fund programs.

(a)(1) A surcharge in the amount of fifty cents (50¢) per each one thousand dollars (\$1,000) of construction authorized on any nonresidential construction permit issued by any political subdivision of this state is imposed to financially support the Arkansas Construction Industry Craft Training Program.

(2) The maximum surcharge for any construction project permitted shall be one thousand dollars (\$1,000).

(b) The office of the political subdivision issuing the permit shall be responsible for collecting the surcharge and remitting it monthly to the Department of Finance and Administration under such rules as the Chief Fiscal Officer of the State may prescribe for the collection, enforcement, and administration of the proceeds of the surcharge and shall retain five percent (5%) of each permit surcharge collected for the cost of administration.

History. Acts 1999, No. 474, § 7; 1999, No. 785, § 1; 2019, No. 315, § 356.

deleted “and regulations” following “rules” in (b).

Amendments. The 2019 amendment

6-55-107. Arkansas Construction Industry Craft Training Trust Fund — Apprenticeship program requirements.

(a) The net proceeds received pursuant to § 6-55-106 shall be deposited into a special trust account in the State Treasury known as the “Arkansas Construction Industry Craft Training Trust Fund”.

(b) Programs established or funded by the fund shall be consistent with the eight (8) criteria recommended by the United States Advisory Committee on Apprenticeship. The eight (8) essential components of an approved apprenticeship program shall include all of the following:

(1) A training strategy that combines supervised, structural on-the-job training with related theoretical instruction and is sponsored by employers or labor or management groups that have the ability to hire and train in a work environment;

(2) A training strategy that prepares an individual for skilled employment by conducting training in bona fide and documented employment settings;

(3) A training strategy with requirements that are clearly delineated in federal laws and regulations, and state laws and rules;

(4) A training strategy that by virtue of a legal contract, indenture, leads to a certificate of completion and official journeyman status;

(5) A training strategy that involves a tangible and generally sizable investment on the part of the employer or labor or management program sponsor;

(6) A training strategy that pays wages to its participants at least during the on-the-job training phase of their apprenticeship and that increases these wages throughout the training program in accordance with a predefined wage progression scale;

(7) A training strategy in which participants learn by working directly under the supervision and tutelage of a master in the craft, trade, or relevant occupational area; and

(8) A training strategy that involves a written agreement and an implicit social obligation between the program sponsor and the apprentice.

(c) The fund may also be used to support youth apprenticeship or pre-apprenticeship construction trade programs in secondary vocational centers.

(d) Upon the recommendation of the Arkansas Apprenticeship Coordination Steering Committee, the Office of Skills Development shall expend the moneys in the fund from time to time to support the training program prescribed in this chapter.

History. Acts 1999, No. 474, § 8; 2019, No. 315, § 357; 2019, No. 910, § 156; 2021, No. 647, § 12.

by No. 315 substituted “federal laws and regulations, and state laws and rules” for “federal and state laws and regulations” in (b)(3).

Amendments. The 2019 amendment

The 2019 amendment by No. 910 substituted "Office of Skills Development" for "Department of Career Education" in (c).

The 2021 amendment inserted (c), and redesignated former (c) as (d); and substi-

tuted "Arkansas Apprenticeship Coordination Steering Committee" for "State Apprenticeship Coordination Steering Committee" in (d).

6-55-108. Rules.

The Office of Skills Development and the Arkansas Apprenticeship Coordination Steering Committee shall promulgate rules necessary to implement the provisions of this chapter.

History. Acts 1999, No. 474, § 5; 2019, No. 910, § 157; 2021, No. 647, § 13.

Amendments. The 2019 amendment substituted "Office of Skills Development" for "Department of Career Education".

The 2021 amendment substituted "Arkansas Apprenticeship Coordination Steering Committee" for "State Apprenticeship Coordination Steering Committee".

CHAPTER 56

ARKANSAS STATE UNIVERSITY-BEEBE

SECTION.

6-56-101. Definitions.

6-56-102. Name change and merger.

6-56-103. Board of advisors.

6-56-104. Effect of merger on employees.

6-56-105. Employee benefits.

6-56-106. Catastrophic leave program.

6-56-107. Effect of merger on curriculum.

SECTION.

6-56-108. Purchasing.

6-56-109. Transfer of assets, obligations, records, personnel, property, unexpended balances, and legal authority.

6-56-110. Work Force 2000 funding.

Effective Dates. Acts 2003, No. 359, § 11: Mar. 13, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that that Foothills Technical Institute should be renamed Arkansas State University-Searcy, A Technical Campus of Arkansas State University-Beebe; that it would benefit both Foothills Technical Institute and Arkansas State University-Beebe to merge into one institution; that the merger of Foothills Technical Institute into the Arkansas State University System should occur at the beginning of the next fiscal year; that substantial work must be done before the merger; and that this act must become effective immediately in order for the preparatory work for the merger to be completed. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If

the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the

fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

6-56-101. Definitions.

As used in this chapter:

(1) “Adult education program” means any classes designed to assist students in preparing for a high school equivalency test and any class designed to improve performance in general basic skills, parenting, English proficiency, or other areas funded by the Adult Education Section; and

(2) “Applied general education courses” means courses from mathematics, communications, social sciences, and similar fields specifically addressing the employment needs of students in one (1) or more occupational programs.

History. Acts 2003, No. 359, § 1; 2015, No. 1115, § 7; 2019, No. 910, § 158. deleted “of the Department of Career Education” following “Adult Education Section” in (1).

Amendments. The 2019 amendment

6-56-102. Name change and merger.

(a) Effective July 1, 2003, Foothills Technical Institute is merged with Arkansas State University-Beebe under the Arkansas State University system.

(b) Effective July 1, 2003, Foothills Technical Institute shall be known as Arkansas State University-Searcy, a technical campus of Arkansas State University-Beebe.

History. Acts 2003, No. 359, § 2.

6-56-103. Board of advisors.

(a) The Foothills Technical Institute Board of Directors shall become the Board of Advisors to Arkansas State University-Searcy, a technical campus of Arkansas State University-Beebe. The directors on June 30, 2003, shall continue their terms as members of the advisory board.

(b)(1) The Arkansas State University-Searcy local board of advisors will be appointed or reappointed by the President of the Arkansas State University system upon recommendations presented by the Chancellor for Arkansas State University-Beebe and the Vice Chancellor of Arkansas State University-Searcy.

(2) Appointment shall be for a term of five (5) years and for no more than two (2) consecutive terms.

History. Acts 2003, No. 359, § 3.

6-56-104. Effect of merger on employees.

(a) All full-time employees of Foothills Technical Institute on June 30, 2003, shall become employees of Arkansas State University-Beebe on July 1, 2003. Upon the merger, Foothills Technical Institute employees shall become Arkansas State University-Beebe employees and therefore have the same rights and opportunities as other Arkansas State University-Beebe employees.

(b) A person employed by Foothills Technical Institute on June 30, 2003, shall be employed by Arkansas State University-Searcy effective July 1, 2003, if:

- (1) Job performance is satisfactory; and
- (2) Student enrollment in the program is satisfactory.

(c) On July 1, 2003, a vice chancellor position of Arkansas State University-Searcy shall be established. The Vice Chancellor of Arkansas State University-Searcy will be a member of the senior management team at Arkansas State University-Beebe. The President of Foothills Technical Institute as of June 30, 2003, shall be the Vice Chancellor of the Arkansas State University-Searcy campus.

(d) The vice presidents of Foothills Technical Institute on June 30, 2003, shall become directors for the Arkansas State University-Searcy campus.

(e) The employees of Foothills Technical Institute as of June 30, 2003, who were the president and vice presidents shall retain and continue to receive:

(1) All options, rights, and benefits of employment granted in this section; and

(2) Any transportation benefits that accompanied the position of the President of Foothills Technical Institute.

(f) An employee who was a member of the faculty of Foothills Technical Institute on June 30, 2003, shall be deemed qualified to teach in the same level program if:

- (1) The faculty member's job performance is satisfactory; and
- (2) Student enrollment is satisfactory.

History. Acts 2003, No. 359, § 4.

6-56-105. Employee benefits.

(a) As a result of the merger on June 30, 2003, all Foothills Technical Institute employees will retain and transfer all annual leave balances, sick leave balances, and retirement benefits, including a retirement match of twelve percent (12%) for employees enrolled in the alternate retirement plans.

(b) Employees who have fifty (50) or more days of accumulated sick leave as of June 30, 2003, shall continue to be eligible to receive a lump sum payment for unused sick leave at the time of retirement.

History. Acts 2003, No. 359, § 5.

6-56-106. Catastrophic leave program.

(a) Arkansas State University-Beebe shall establish a catastrophic leave program for all full-time employees of Arkansas State University-Beebe.

(b) The program shall be similar to that authorized under § 21-4-214.

History. Acts 2003, No. 359, § 6.

6-56-107. Effect of merger on curriculum.

(a) Arkansas State University-Beebe shall offer the option of applied general education courses in occupational certificate programs offered by Foothills Technical Institute in 2002-2003.

(b) Students in the programs involved may also be offered the option of college transfer general education courses in addition to the option of applied general education courses.

(c) Without regard to the higher average cost of occupational programs, all current Foothills Technical Institute programs shall continue to be offered by Arkansas State University-Beebe for as long as they meet industry needs and are fiscally effective.

(d) All adult basic education, high school equivalency tests, and high school area center programs currently provided by Foothills Technical Institute in 2002-2003 shall continue to be administered by Arkansas State University-Searcy, provided funding is available.

(e) Existing certificate and diploma programs offered at Foothills Technical Institute in 2002-2003 shall become certificate and technical certificate programs as authorized by Arkansas State University-Beebe.

History. Acts 2003, No. 359, § 7; 2015, No. 1115, § 8.

6-56-108. Purchasing.

Purchases by Arkansas State University-Searcy will conform to established procedures at Arkansas State University-Beebe and the Arkansas State University system.

History. Acts 2003, No. 359, § 8.

6-56-109. Transfer of assets, obligations, records, personnel, property, unexpended balances, and legal authority.

(a) On July 1, 2003, all property and other rights, claims, and assets of Foothills Technical Institute are transferred to Arkansas State University-Beebe.

(b) On July 1, 2003, all obligations of Foothills Technical Institute become obligations of Arkansas State University-Beebe.

(c) On July 1, 2003, all records, personnel, property, unexpended balances, and all legal authority are transferred from Foothills Technical Institute to Arkansas State University-Beebe.

(d) All cash fund balances of Foothills Technical Institute on July 1, 2003, shall be used for the operation, support, and improvement of occupational, vocational, technical, and workforce development programs of Arkansas State University-Searcy.

History. Acts 2003, No. 359, § 9.

6-56-110. Work Force 2000 funding.

Funding from the Work Force 2000 Development Fund will be provided to Arkansas State University-Beebe to fund workforce development and vocational, occupational, and training programs offered by Arkansas State University-Searcy.

History. Acts 2003, No. 359, § 10.

CHAPTER 57

ARKANSAS VALLEY TECHNICAL INSTITUTE

SECTION.

6-57-101. Name change and merger.

6-57-102. Transfer of assets, obligations, records, personnel, property, unexpended balances, and legal authority.

SECTION.

6-57-103. Employee benefits.

6-57-104. Work Force 2000 funding.

Effective Dates. Acts 2003, No. 452, § 4[5]: Mar. 17, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it would benefit both Arkansas Valley Technical Institute and Arkansas Tech University to merge into one institution; that the merger of Arkansas Valley Technical Institute into Arkansas Tech University should occur at the beginning of the next fiscal year; that substantial work must be done before the merger; and that this act must become effective immediately in order for the preparatory work for the merger to be completed. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither

approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2007, No. 260, § 5: July 1, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this bill calls for the renaming of Arkansas Valley Technical Institute of Arkansas Tech University to Arkansas Tech University - Ozark Campus and the ideal time for changing the name of the institute is at the beginning of the state's fiscal year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2007."

6-57-101. Name change and merger.

(a) Effective July 1, 2003, Arkansas Valley Technical Institute is merged with and into Arkansas Tech University and shall be governed by the Board of Trustees of Arkansas Tech University.

(b) Effective July 1, 2003, all powers, duties, responsibility, control, and supervisory authority heretofore vested in the Board of Directors of Arkansas Valley Technical Institute are transferred to the Board of Trustees of Arkansas Tech University, and upon transfer of the assets, books of accounts, and files of the Board of Directors of Arkansas Valley Technical Institute to the Board of Trustees of Arkansas Tech University, the Board of Directors of Arkansas Valley Technical Institute shall be divested of all obligations and duties.

(c) Effective July 1, 2003, the Arkansas Valley Technical Institute campus shall be known as Arkansas Valley Technical Institute of Arkansas Tech University.

(d) Effective July 1, 2007, the Arkansas Valley Technical Institute of Arkansas Tech University shall be known as Arkansas Tech University — Ozark Campus.

History. Acts 2003, No. 452, § 1; 2007, No. 260, § 1.

6-57-102. Transfer of assets, obligations, records, personnel, property, unexpended balances, and legal authority.

(a) On July 1, 2003, all property and other rights, claims, and assets of the Arkansas Valley Technical Institute are transferred to Arkansas Tech University.

(b) On July 1, 2003, all obligations of the Arkansas Valley Technical Institute become obligations of Arkansas Tech University.

(c) On July 1, 2003, all records, personnel, property, unexpended balances, and all legal authority transfer from the Arkansas Valley Technical Institute to Arkansas Tech University.

(d) All cash fund balances of Arkansas Valley Technical Institute transferred to Arkansas Tech University shall be used for the operation, support, and improvement of occupational, vocational, technical, and workforce development programs of Arkansas Tech University.

History. Acts 2003, No. 452, § 2.

6-57-103. Employee benefits.

(a)(1) Employees of Arkansas Valley Technical Institute as of June 30, 2003, who are eligible for payment of accrued sick leave upon retirement or death under § 21-4-501 shall retain that benefit.

(2) This benefit shall be paid upon the employee's retirement or death from the funds restricted to expenditures in support of Arkansas Valley Technical Institute.

(3) Individuals employed after June 30, 2003, shall not be entitled to receive compensation under § 21-4-501.

(b)(1) Employees of Arkansas Valley Technical Institute as of June 30, 2003, who are enrolled in the alternative retirement plan and are receiving a retirement match of twelve percent (12%) shall retain the benefit.

(2) Individuals employed after June 30, 2003, shall not be entitled to enroll in the alternative retirement program.

History. Acts 2003, No. 452, § 3; 2007, No. 260, § 2.

6-57-104. Work Force 2000 funding.

Funding from the Work Force 2000 Development Fund shall be provided to Arkansas Tech University to fund workforce development, vocational, occupational, and training programs offered by Arkansas Tech University — Ozark Campus.

History. Acts 2003, No. 452, § 5[4]; 2007, No. 260, § 3.

CHAPTER 58

NATIONAL PARK COLLEGE

SECTION.

- 6-58-101. Definitions.
- 6-58-102. Name change and merger.
- 6-58-103. Board of trustees.
- 6-58-104. Effect of merger on employees.
- 6-58-105. Sick leave.
- 6-58-106. Catastrophic leave program.
- 6-58-107. Effect of merger on curriculum.
- 6-58-108. Purchasing.
- 6-58-109. Transfer of assets, obligations, records, personnel, prop-

SECTION.

- erty, unexpended balances, and legal authority.
- 6-58-110. Work Force 2000 funding.
- 6-58-111. Funding for salary equity.
- 6-58-112. Conversion of positions and maximum salaries for Quapaw Technical Institute.
- 6-58-113. Employee health insurance plan.

Effective Dates. Acts 2003, No. 678, § 13; Mar. 26, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that Garland County Community College should be renamed as National Park Community College; that it would benefit both Quapaw Technical Institute and National Park Community College to merge into one institution; that the merger of Quapaw Technical Institute into National Park Community College should occur at the beginning of the next

fiscal year; that substantial work must be done before the merger; and that this act is immediately necessary in order for the preparatory work for the merger to be completed. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the

bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2005, No. 908, § 2: July 1, 2005. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the cost of health care insurance is increasing annually; that the Board of Trustees of National Park Community College is desirous of containing employee and employer health insurance premiums; that by having the ability to offer more than one (1) health insurance plan to employees, the board will be able to more efficiently utilize college resources; and that this act is immediately necessary in order to enable the board to implement the health insurance plans. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2005.”

Acts 2016, No. 141, § 15: July 1, 2016. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2016 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2016 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2016.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections

of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

Acts 2021, No. 1004, § 29: Apr. 28, 2021. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the decisions currently made by the State and Public School Life and Health Insurance Board are of critical importance to the financial health of the state; that the State Board of Finance shall preserve the public peace, health, and safety by effectively administering the State and Public School Life and Health Insurance Program; that this act provides for the abolition of the State and Public School Life and Health Insurance Board, and the transfer of the duties of the State and Public School Life and Health Insurance Board to the State Board of Finance; and that this act is immediately necessary because the decisions made by the State Board of Finance are necessary to ensure that the State and Public School Life and Health Insurance Program administered by the State Board of Finance provides its vital services to the public school and state employees and to ensure that there are no disruptions or complications with vital employee benefits. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-58-101. Definitions.

As used in this chapter:

(1) "Adult education program" means any classes designed to assist students in preparing for a high school equivalency test, any class designed to improve performance in general basic skills, parenting, English proficiency, or other areas funded by the Adult Education Section; and

(2) "Applied general education courses" means courses from mathematics, communications, social sciences, and similar fields specifically addressing the employment needs of students in one (1) or more occupational programs.

History. Acts 2003, No. 678, § 1; 2015, No. 1115, § 9; 2016, No. 141, § 6; 2019, No. 910, § 159. deleted "of the Department of Career Education" following "Adult Education Section" in (1).

Amendments. The 2019 amendment

6-58-102. Name change and merger.

(a) Effective July 1, 2003, Garland County Community College is renamed "National Park College", and the Garland County Community College District is renamed "National Park College District".

(b) Effective July 1, 2003, Quapaw Technical Institute is merged with and into National Park College.

(c) National Park College is an institution of higher education and is subject to the laws governing community colleges, except as otherwise provided in this chapter.

History. Acts 2003, No. 678, § 2; Acts 2016, No. 141, § 6.

6-58-103. Board of trustees.

(a)(1) The board member of Quapaw Technical Institute serving on June 30, 2003, and whose term is to expire in 2003, shall become a member of the Board of Trustees of National Park College on July 1, 2003, and the term of the board member shall expire on December 31, 2004.

(2) The board members of the Quapaw Technical Institute serving on June 30, 2003, and whose terms are to expire in 2004 and 2005 shall become members of the Board of Trustees of National Park College on July 1, 2003, and their terms shall expire on December 31, 2006.

(3) The board members of Quapaw Technical Institute serving on June 30, 2003, and whose terms are to expire in 2006 and 2007 shall become members of the Board of Trustees of National Park College on July 1, 2003, and their terms shall expire on December 31, 2008.

(b)(1) The trustees of the Garland County Community College serving on June 30, 2003, and whose terms expire on December 31, 2004, shall become members of the Board of Trustees of National Park

College on July 1, 2003, and their terms shall expire on December 31, 2004.

(2) The trustees of the Garland County Community College serving on June 30, 2003, and whose terms expire on December 31, 2006, shall become members of the Board of Trustees of National Park College on July 1, 2003, and their terms shall expire on December 31, 2006.

(3) The trustees of the Garland County Community College serving on June 30, 2003, and whose terms expire on December 31, 2008, shall become members of the Board of Trustees of National Park College on July 1, 2003, and their terms shall expire on December 31, 2008.

(c)(1) Three (3) trustees of National Park College shall be elected at the 2004 general election in the same manner and for the same terms as prescribed in § 6-61-520.

(2) Three (3) trustees of National Park College shall be elected at the 2006 general election in the same manner and for the same terms as prescribed in § 6-61-520.

(3) Three (3) trustees of National Park College shall be elected at the 2008 general election in the same manner and for the same terms as prescribed in § 6-61-520.

(d) No vacancy on the Board of Trustees of National Park College shall be filled until the number of remaining board members of National Park College with terms expiring on the same date equals two (2) or fewer.

History. Acts 2003, No. 678, § 3; 2016, No. 141, § 6.

A.C.R.C. Notes. As enacted, subsection (d) also provided: "A vacancy on the board of Quapaw Technical Institute or on the Board of Trustees of Garland County

Community College occurring before July 1, 2003, shall not be filled unless it would cause the Board of Trustees of National Park Community College to have fewer than three (3) trustees whose terms expire in the year 2004, 2006, or 2008."

6-58-104. Effect of merger on employees.

(a)(1) All permanent nonprobationary employees of Quapaw Technical Institute or Garland County Community College on June 30, 2003, shall become employees of National Park College on July 1, 2003.

(2) A person who was a permanent nonprobationary employee of Quapaw Technical Institute or Garland County Community College on June 30, 2003, shall be employed by National Park College at least until July 1, 2008, if:

(A) Job performance is satisfactory;

(B) Student enrollment in programs is satisfactory; and

(C) Student job placements are satisfactory.

(b)(1)(A) By January 31, 2004, employees who were employed on June 30, 2003, by Garland County Community College or Quapaw Technical Institute shall have the right to make a one-time choice between:

(i) The National Park College Health Insurance Plan, which was formerly known as the "Garland County Community College Health Insurance Plan"; or

(ii) The health insurance plan adopted by the State Board of Finance for state employees.

(B) An employee who was employed by Quapaw Technical Institute on June 30, 2003, shall be entitled to remain in his or her same retirement system under the same conditions then provided by law or as may later be provided by law.

(2) The Board of Trustees of National Park College shall promulgate rules establishing the procedure for employees to exercise benefit options under this subsection.

(c)(1) Until the later of July 1, 2008, or the date a reorganization that guarantees the importance and position of technical education is adopted by the Board of Trustees of National Park College, the President of the Quapaw Technical Institute as of June 30, 2003, shall be the Vice President for Technical Education at National Park College.

(2) The employee who was the President of the Quapaw Technical Institute as of June 30, 2003, shall retain and continue to receive:

(A) All options, rights, and benefits of employment granted in subsection (b) of this section; and

(B) Any transportation benefits that accompanied the position of President of the Quapaw Technical Institute.

(d) An employee who was a member of the faculty of Quapaw Technical Institute on June 30, 2003, shall be deemed qualified to teach in the same level programs at National Park College if:

(1) The faculty member's job performance is satisfactory;

(2) Student enrollment is satisfactory; and

(3) Student job placements are satisfactory.

History. Acts 2003, No. 678, § 4; 2016, No. 141, § 6; 2019, No. 315, § 358; 2021, No. 1004, § 5.

A.C.R.C. Notes. Acts 2021, No. 1004, § 1, provided: "Abolition of the State and Public School Life and Health Insurance Board and transfer of duties and responsibilities to State Board of Finance — Legislative findings.

"(a) The General Assembly finds that:

"(1) The State and Public School Life and Health Insurance Program is underfunded and will operate in a deficit;

"(2) The State and Public School Life and Health Insurance Board has not been effective in developing a strong State and Public School Life and Health Insurance Program;

"(3) The State Board of Finance is established to manage the state's financial concerns;

"(4) The State Board of Finance is the entity that is currently best suited to make decisions and policy for the State and Public School Life and Health Insurance Program; and

"(5) The State Board of Finance shall make decisions and policy determinations for the State and Public School Life and Health Insurance Program until the General Assembly adopts a permanent governance system to ensure solvency of the State and Public School Life and Health Insurance Program and state and public school employee benefits.

"(b) The State and Public School Life and Health Insurance Board is abolished and all duties and responsibilities of the State and Public School Life and Health Insurance Board be vested in the State Board of Finance.

"(c)(1) The administrative functions of the State and Public School Life and Health Insurance Board are transferred in the same manner as a cabinet-level department transfer under § 25-43-101 et seq. from the Department of Transformation and Shared Services to the State Board of Finance.

"(2) All duties assigned to the State and Public School Life and Health Insurance Program administered by the Employee

Benefits Division of the Department of Transformation and Shared Services shall remain with the division.

“(3) All employees of the department performing duties for the State and Public School Life and Health Insurance Board shall remain employees of the department and are not transferred by this act.

“(4) All duties assigned under § 25-43-101 et seq. to the Secretary of the Department of Transformation and Shared Services concerning the State and Public School Life and Health Insurance Board shall be performed by the designee of the State Board of Finance.

“(d) The statutory authority, powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting or purchasing of the State and Public School Life and Health Insurance Board, are transferred from the department to the State Board of Finance.

“(e)(1) The transfer of the State and Public School Life and Health Insurance Board does not affect the orders, rules, regulations, directives, or standards made or promulgated by the State and Public School Life and Health Insurance Board before the effective date of this act [April 28, 2021].

“(2) The orders, rules, regulations, directives, or standards under subdivision (e)(1) of this section shall continue with

full force and effect until amended or repealed under authority given by law.

“(3) All commitments, decisions, plans, or other actions taken by the State and Public School Life and Health Insurance Board with regard to plans, plan design, plan benefits, premiums, premium increases, deductibles, or cost-containment measures for plans to take effect January 1, 2022, or thereafter are subject to modification, change, or other action by the State Board of Finance and shall be submitted to the Legislative Council for approval before implementation by the State Board of Finance.

“(f) The department shall grant access to and provide all information requested by the State Board of Finance to accomplish the transfer of the State and Public School Life and Health Insurance Board and the statutory duties of the State and Public School Life and Health Insurance Board.

“(g) The terms of all members of the State and Public Life and Health Insurance Board are terminated and shall end on the effective date of this act [April 28, 2021].”

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (b)(2).

The 2021 amendment substituted “State Board of Finance” for “State and Public School Life and Health Insurance Board” in (b)(1)(A)(ii).

6-58-105. Sick leave.

The employees of National Park College shall be entitled to lump-sum payment for unused sick leave under a program similar to that authorized by § 21-4-501 and § 21-4-502 [repealed].

History. Acts 2003, No. 678, § 5; 2016, No. 141, § 6.

6-58-106. Catastrophic leave program.

National Park College shall establish a catastrophic leave program for all permanent employees. The program shall be similar to that authorized under § 21-4-214.

History. Acts 2003, No. 678, § 6; 2016, No. 141, § 6.

6-58-107. Effect of merger on curriculum.

(a)(1) National Park College shall offer the option of:

(A) Applied general education courses in occupational certificate and associate degree programs now offered by Quapaw Technical Institute; and

(B) Where appropriate to the program involved, programs now offered by Garland County Community College.

(2) Students in the programs involved also may be offered the options of college transfer general education courses in addition to the option of applied general education courses.

(b) Without regard to the higher average cost of occupational programs, all current Quapaw Technical Institute programs shall continue to be offered by National Park College for as long as they meet industry needs and are fiscally effective.

(c) All adult basic education, high school equivalency tests, and high school programs currently provided by Quapaw Technical Institute or the Garland County Community College shall continue at National Park College.

(d) Existing certificate and degree programs now offered at Quapaw Technical Institute or Garland County Community College shall continue to be authorized for National Park College until the Arkansas Higher Education Coordinating Board determines that the programs do not meet minimum standards of quality and cost-effectiveness.

History. Acts 2003, No. 678, § 7; 2015, No. 1115, § 10; 2016, No. 141, § 6.

6-58-108. Purchasing.

(a) Purchases by National Park College shall continue to be made under procedures which were applicable to Garland County Community College or may be made under procedures that were applicable to Quapaw Technical Institute.

(b) Flexibility in shop purchases, parts, and house construction programs shall continue in the same manner as authorized for the original institutions.

History. Acts 2003, No. 678, § 8; 2016, No. 141, § 6.

6-58-109. Transfer of assets, obligations, records, personnel, property, unexpended balances, and legal authority.

(a) On July 1, 2003, all property and other rights, claims, and assets of the Quapaw Technical Institute are transferred to National Park College.

(b) On July 1, 2003, all obligations of the Quapaw Technical Institute become obligations of National Park College.

(c) On July 1, 2003, all records, personnel, property, unexpended balances of appropriations and funds, and all legal authority will transfer from the Quapaw Technical Institute to National Park College.

(d) All cash fund balances of Quapaw Technical Institute transferred to National Park College shall be used for the operation, support, and improvement of occupational, vocational, technical, and work force development programs of National Park College.

History. Acts 2003, No. 678, § 9; 2016, No. 141, § 6.

6-58-110. Work Force 2000 funding.

Funding from the Work Force 2000 Development Fund which would have been provided to Quapaw Technical Institute shall be provided to National Park College to fund work force development, vocational, occupational, and training programs offered by National Park College.

History. Acts 2003, No. 678, § 10; 2016, No. 141, § 6.

6-58-111. Funding for salary equity.

In that funding for and achievement of salary equity among employees of National Park College is essential for the successful merger of Quapaw Technical Institute into National Park College, this chapter shall become void if, prior to May 1, 2003, the board of either Garland County Community College or Quapaw Technical Institute determines that funds are not available to achieve salary equity.

History. Acts 2003, No. 678, § 11; 2016, No. 141, § 6.

6-58-112. Conversion of positions and maximum salaries for Quapaw Technical Institute.

The maximum salaries as authorized for the positions in the appropriations act for Quapaw Technical Institute shall be converted to the maximum salaries for the equivalent or similar positions as authorized in the appropriations act for National Park College. The conversion of the maximum salaries shall be approved by the Division of Higher Education for line item salaries or by the Department of Finance and Administration for classified salaries and be reported to the Legislative Council.

History. Acts 2003, No. 678, § 12; 2016, No. 141, § 6; 2019, No. 910, § 1936.

Amendments. The 2019 amendment substituted "National Park College" for

"Garland County Community College" and "Division of Higher Education" for "Department of Higher Education".

6-58-113. Employee health insurance plan.

(a) The Board of Trustees of National Park College may determine each year whether to offer employees of National Park College more than one (1) health insurance plan from which to choose.

(b) If more than one (1) health insurance plan is authorized by the Board of Trustees of National Park College, a permanent employee of the college may annually elect to enroll in:

(1) The National Park College Health Insurance Plan, if a plan is adopted by the Board of Trustees of National Park College; or

(2) The health insurance plan adopted by the State Board of Finance for state employees, if the Board of Trustees of National Park College authorizes college employees to participate in the plan subject to the conditions and rates established by the State Board of Finance.

(c) The election under subsection (b) of this section must be made:

(1) At the time of initial employment by the college; or

(2) During the applicable annual open enrollment period for the health insurance plan.

(d) An election under subsection (b) of this section is effective for the health insurance plan year and may not be altered until the following annual open enrollment period for the health insurance plan.

History. Acts 2005, No. 908, § 1; 2016, No. 141, § 6; 2021, No. 1004, § 6.

A.C.R.C. Notes. Acts 2021, No. 1004, § 1, provided: "Abolition of the State and Public School Life and Health Insurance Board and transfer of duties and responsibilities to State Board of Finance — Legislative findings.

"(a) The General Assembly finds that:

"(1) The State and Public School Life and Health Insurance Program is underfunded and will operate in a deficit;

"(2) The State and Public School Life and Health Insurance Board has not been effective in developing a strong State and Public School Life and Health Insurance Program;

"(3) The State Board of Finance is established to manage the state's financial concerns;

"(4) The State Board of Finance is the entity that is currently best suited to make decisions and policy for the State and Public School Life and Health Insurance Program; and

"(5) The State Board of Finance shall make decisions and policy determinations for the State and Public School Life and Health Insurance Program until the General Assembly adopts a permanent governance system to ensure solvency of the State and Public School Life and Health

Insurance Program and state and public school employee benefits.

"(b) The State and Public School Life and Health Insurance Board is abolished and all duties and responsibilities of the State and Public School Life and Health Insurance Board be vested in the State Board of Finance.

"(c)(1) The administrative functions of the State and Public School Life and Health Insurance Board are transferred in the same manner as a cabinet-level department transfer under § 25-43-101 et seq. from the Department of Transformation and Shared Services to the State Board of Finance.

"(2) All duties assigned to the State and Public School Life and Health Insurance Program administered by the Employee Benefits Division of the Department of Transformation and Shared Services shall remain with the division.

"(3) All employees of the department performing duties for the State and Public School Life and Health Insurance Board shall remain employees of the department and are not transferred by this act.

"(4) All duties assigned under § 25-43-101 et seq. to the Secretary of the Department of Transformation and Shared Services concerning the State and Public School Life and Health Insurance Board

shall be performed by the designee of the State Board of Finance.

“(d) The statutory authority, powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting or purchasing of the State and Public School Life and Health Insurance Board, are transferred from the department to the State Board of Finance.

“(e)(1) The transfer of the State and Public School Life and Health Insurance Board does not affect the orders, rules, regulations, directives, or standards made or promulgated by the State and Public School Life and Health Insurance Board before the effective date of this act [April 28, 2021].

“(2) The orders, rules, regulations, directives, or standards under subdivision (e)(1) of this section shall continue with full force and effect until amended or repealed under authority given by law.

“(3) All commitments, decisions, plans, or other actions taken by the State and Public School Life and Health Insurance

Board with regard to plans, plan design, plan benefits, premiums, premium increases, deductibles, or cost-containment measures for plans to take effect January 1, 2022, or thereafter are subject to modification, change, or other action by the State Board of Finance and shall be submitted to the Legislative Council for approval before implementation by the State Board of Finance.

“(f) The department shall grant access to and provide all information requested by the State Board of Finance to accomplish the transfer of the State and Public School Life and Health Insurance Board and the statutory duties of the State and Public School Life and Health Insurance Board.

“(g) The terms of all members of the State and Public Life and Health Insurance Board are terminated and shall end on the effective date of this act [April 28, 2021].”

Amendments. The 2021 amendment substituted “State Board of Finance” for “State and Public School Life and Health Insurance Board” twice in (b)(2).

CHAPTER 59

ARKANSAS NORTHEASTERN COLLEGE

- SECTION.
- 6-59-101. Definitions.

6-59-102. Merger and name change.

6-59-103. Board of directors and ex officio board of trustees.

6-59-104. Effect of merger on employees.

6-59-105. Sick leave.

6-59-106. Catastrophic leave program.

6-59-107. Effect of merger on curriculum.

- SECTION.
- 6-59-108. Purchasing.

6-59-109. Transfer of assets, obligations, records, personnel, property, unexpended balances, and legal authority.

6-59-110. Work Force 2000 funding.

6-59-111. Funding for salary equity.

Effective Dates. Acts 2003, No. 830, § 12: Mar. 27, 2003. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that Mississippi County Community College, effective July 1, 2003, should be renamed as the Arkansas Northeastern College; that it would benefit both Cotton Boll Technical Institute and Mississippi County Community College to merge into one institution; that the merger of Cotton Boll Technical Institute into Mississippi County Community College should occur at the beginning of the next fiscal year;

that substantial work must be done before the merger; and that this act must become effective immediately in order for the preparatory work for the merger to be completed. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the

Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

Acts 2021, No. 1004, § 29: Apr. 28, 2021. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the decisions currently made by the State and Public School Life and Health Insurance Board

are of critical importance to the financial health of the state; that the State Board of Finance shall preserve the public peace, health, and safety by effectively administering the State and Public School Life and Health Insurance Program; that this act provides for the abolition of the State and Public School Life and Health Insurance Board, and the transfer of the duties of the State and Public School Life and Health Insurance Board to the State Board of Finance; and that this act is immediately necessary because the decisions made by the State Board of Finance are necessary to ensure that the State and Public School Life and Health Insurance Program administered by the State Board of Finance provides its vital services to the public school and state employees and to ensure that there are no disruptions or complications with vital employee benefits. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-59-101. Definitions.

As used in this chapter:

(1) “Adult education program” means any classes designed to assist students in preparing for a high school equivalency test and any class designed to improve performance in general basic skills, parenting, English proficiency, or other areas funded by the Adult Education Section; and

(2) “Applied general education courses” means courses from mathematics, communications, social sciences, and similar fields specifically addressing the employment needs of students in one (1) or more occupational programs.

History. Acts 2003, No. 830, § 1; 2015, No. 1115, § 11; 2019, No. 910, § 1937.

Amendments. The 2019 amendment substituted “Division of Workforce Ser-

vices” for “Department of Career Education” following “Adult Education Section of the” in (1).

6-59-102. Merger and name change.

(a) Effective July 1, 2003, Cotton Boll Technical Institute is merged with and into Mississippi County Community College, subject to the concurrence of the Higher Learning Commission.

(b) Effective July 1, 2003, Mississippi County Community College shall be renamed and known as Arkansas Northeastern College.

History. Acts 2003, No. 830, § 2.

6-59-103. Board of directors and ex officio board of trustees.

Each board member of the Cotton Boll Technical Institute Board of Directors serving on June 30, 2003, shall become an ex officio member of the Board of Trustees of Arkansas Northeastern College on July 1, 2003, and for the remainder of his or her appointed term.

History. Acts 2003, No. 830, § 3.

6-59-104. Effect of merger on employees.

(a)(1) All permanent nonprobationary employees of Cotton Boll Technical Institute on June 30, 2003, shall become employees of Arkansas Northeastern College on July 1, 2003.

(2) A person who was a permanent nonprobationary employee of Cotton Boll Technical Institute on June 30, 2003, shall be employed by Arkansas Northeastern College at least until July 1, 2008, if:

(A) Job performance is satisfactory;

(B) Student enrollment in programs is satisfactory; and

(C) Student job placements are satisfactory.

(b)(1)(A) By January 31, 2004, employees who were employed on June 30, 2003, by Mississippi County Community College or Cotton Boll Technical Institute shall have the right to make a one-time choice between:

(i) The Arkansas Northeastern College health insurance plan; or

(ii) The health insurance plan adopted by the State Board of Finance for state employees.

(B) An employee who was employed by Cotton Boll Technical Institute on June 30, 2003, shall be entitled to remain in his or her same retirement system under the same conditions then provided by law or as may later be provided by law.

(C) The Cotton Boll Technical Institute employees who are classified employees of Cotton Boll Technical Institute but whose positions are deemed equivalent by Arkansas Northeastern College to nonclassified employee positions at the college may become nonclassified, and the classified position authorization is changed to nonclassified position authorization with the requisite increase in each appropriate nonclassified position allotment to Arkansas Northeastern College.

(2) The Board of Trustees of Arkansas Northeastern College shall promulgate rules establishing the procedure for employees to exercise equal benefit options under this subsection.

(c)(1) The President of the Cotton Boll Technical Institute on June 30, 2003, shall be a vice president at Arkansas Northeastern College until at least July 1, 2008.

(2) The employee who was the president on June 30, 2003, shall retain and continue to receive:

(A) All options, rights, and benefits of employment, including salary plus any adjustment authorized by the Board of Trustees of Arkansas Northeastern College, granted in subdivision (b)(1) of this section; and

(B) Any transportation benefits that accompanied the position of president.

(d) An employee who was a member of the faculty of Cotton Boll Technical Institute on June 30, 2003, shall be deemed qualified to teach in the same level programs at Arkansas Northeastern College if:

(1) The faculty member's job performance is satisfactory;

(2) Student enrollment is satisfactory; and

(3) Student job placements are satisfactory.

History. Acts 2003, No. 830, § 4; 2019, No. 315, § 359; 2021, No. 1004, § 7.

A.C.R.C. Notes. Acts 2021, No. 1004, § 1, provided: "Abolition of the State and Public School Life and Health Insurance Board and transfer of duties and responsibilities to State Board of Finance — Legislative findings.

"(a) The General Assembly finds that:

"(1) The State and Public School Life and Health Insurance Program is underfunded and will operate in a deficit;

"(2) The State and Public School Life and Health Insurance Board has not been effective in developing a strong State and Public School Life and Health Insurance Program;

"(3) The State Board of Finance is established to manage the state's financial concerns;

"(4) The State Board of Finance is the entity that is currently best suited to make decisions and policy for the State and Public School Life and Health Insurance Program; and

"(5) The State Board of Finance shall make decisions and policy determinations for the State and Public School Life and Health Insurance Program until the General Assembly adopts a permanent governance system to ensure solvency of the State and Public School Life and Health Insurance Program and state and public school employee benefits.

"(b) The State and Public School Life and Health Insurance Board is abolished

and all duties and responsibilities of the State and Public School Life and Health Insurance Board be vested in the State Board of Finance.

"(c)(1) The administrative functions of the State and Public School Life and Health Insurance Board are transferred in the same manner as a cabinet-level department transfer under § 25-43-101 et seq. from the Department of Transformation and Shared Services to the State Board of Finance.

"(2) All duties assigned to the State and Public School Life and Health Insurance Program administered by the Employee Benefits Division of the Department of Transformation and Shared Services shall remain with the division.

"(3) All employees of the department performing duties for the State and Public School Life and Health Insurance Board shall remain employees of the department and are not transferred by this act.

"(4) All duties assigned under § 25-43-101 et seq. to the Secretary of the Department of Transformation and Shared Services concerning the State and Public School Life and Health Insurance Board shall be performed by the designee of the State Board of Finance.

"(d) The statutory authority, powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, including the functions of budgeting or purchasing of the State and Public School

Life and Health Insurance Board, are transferred from the department to the State Board of Finance.

“(e)(1) The transfer of the State and Public School Life and Health Insurance Board does not affect the orders, rules, regulations, directives, or standards made or promulgated by the State and Public School Life and Health Insurance Board before the effective date of this act [April 28, 2021].

“(2) The orders, rules, regulations, directives, or standards under subdivision (e)(1) of this section shall continue with full force and effect until amended or repealed under authority given by law.

“(3) All commitments, decisions, plans, or other actions taken by the State and Public School Life and Health Insurance Board with regard to plans, plan design, plan benefits, premiums, premium increases, deductibles, or cost-containment measures for plans to take effect January 1, 2022, or thereafter are subject to modification, change, or other action by the

State Board of Finance and shall be submitted to the Legislative Council for approval before implementation by the State Board of Finance.

“(f) The department shall grant access to and provide all information requested by the State Board of Finance to accomplish the transfer of the State and Public School Life and Health Insurance Board and the statutory duties of the State and Public School Life and Health Insurance Board.

“(g) The terms of all members of the State and Public Life and Health Insurance Board are terminated and shall end on the effective date of this act [April 28, 2021].”

Amendments. The 2019 amendment deleted “and regulations” following “rules” in (b)(2).

The 2021 amendment substituted “State Board of Finance” for “State and Public School Life and Health Insurance Board” in (b)(1)(A)(ii).

6-59-105. Sick leave.

The employees of Arkansas Northeastern College shall be entitled to lump-sum payment for unused sick leave under a program similar to that authorized by § 21-4-501 and § 21-4-502 [repealed].

History. Acts 2003, No. 830, § 5.

6-59-106. Catastrophic leave program.

(a) Mississippi County Community College has established a catastrophic leave program for all permanent employees. The program is similar to that authorized under § 21-4-214.

(b) All Cotton Boll Technical Institute employees who were employed by Cotton Boll Technical Institute on June 30, 2003, shall be in the catastrophic leave program of the Arkansas Northeastern College.

History. Acts 2003, No. 830, § 6.

6-59-107. Effect of merger on curriculum.

(a)(1) Arkansas Northeastern College shall offer the option of:

(A) Applied general education courses in occupational certificate programs now offered by Cotton Boll Technical Institute; and

(B) Where appropriate to the program involved, programs offered by Mississippi County Community College as of March 27, 2003.

(2) Students in the programs involved may also be offered the options of college transfer general education courses in addition to the option of applied general education courses.

(b) Without regard to the higher average cost of occupational programs, all current Cotton Boll Technical Institute programs shall continue to be offered by Arkansas Northeastern College for as long as they meet industry or student needs.

(c) All adult basic education, high school equivalency tests, and high school programs provided by Cotton Boll Technical Institute or Mississippi County Community College on March 27, 2003, shall continue at Arkansas Northeastern College.

(d) Existing certificate programs now offered at Cotton Boll Technical Institute or certificate and degree programs now offered at Mississippi County Community College shall continue to be authorized for Arkansas Northeastern College until the Arkansas Higher Education Coordinating Board determines that the programs do not meet minimum standards of quality and cost-effectiveness.

History. Acts 2003, No. 830, § 7; 2015, No. 1115, § 12.

6-59-108. Purchasing.

(a) Purchases by Arkansas Northeastern College shall continue to be made under procedures that were applicable to Mississippi County Community College or may be made under procedures that were applicable to Cotton Boll Technical Institute.

(b) Flexibility in shop purchases, parts, and house construction programs shall continue in the same manner authorized for the original institutions.

History. Acts 2003, No. 830, § 8.

6-59-109. Transfer of assets, obligations, records, personnel, property, unexpended balances, and legal authority.

(a) On July 1, 2003, all property and other rights, claims, and assets of the Cotton Boll Technical Institute are transferred to Arkansas Northeastern College.

(b) On July 1, 2003, all obligations of the Cotton Boll Technical Institute shall become obligations of Arkansas Northeastern College.

(c) On July 1, 2003, all records, personnel, property, unexpended balances, and all legal authority transfer from the Cotton Boll Technical Institute to Arkansas Northeastern College.

(d) All cash fund balances of Cotton Boll Technical Institute transferred to Arkansas Northeastern College shall be used for the operation, support, and improvement of occupational, vocational, technical, and workforce development programs of Arkansas Northeastern College.

History. Acts 2003, No. 830, § 9.

6-59-110. Work Force 2000 funding.

Funding from the Work Force 2000 Development Fund which would have been provided to Cotton Boll Technical Institute shall be provided to Arkansas Northeastern College to fund workforce development, vocational, occupational, and training programs offered by Arkansas Northeastern College.

History. Acts 2003, No. 830, § 10.

6-59-111. Funding for salary equity.

In that funding for and achievement of salary equity among employees of Arkansas Northeastern College is essential for the successful merger of Cotton Boll Technical Institute into Arkansas Northeastern College, this chapter declares the importance of the provision through the Revenue Stabilization Law, § 19-5-101 et seq., for salary equity in addition to incremental funding increases comparable to other institutions of higher education.

History. Acts 2003, No. 830, § 11.

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